

[First Reprint]

**ASSEMBLY, No. 4496**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED JUNE 29, 2022

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Assemblyman BENJIE E. WIMBERLY**

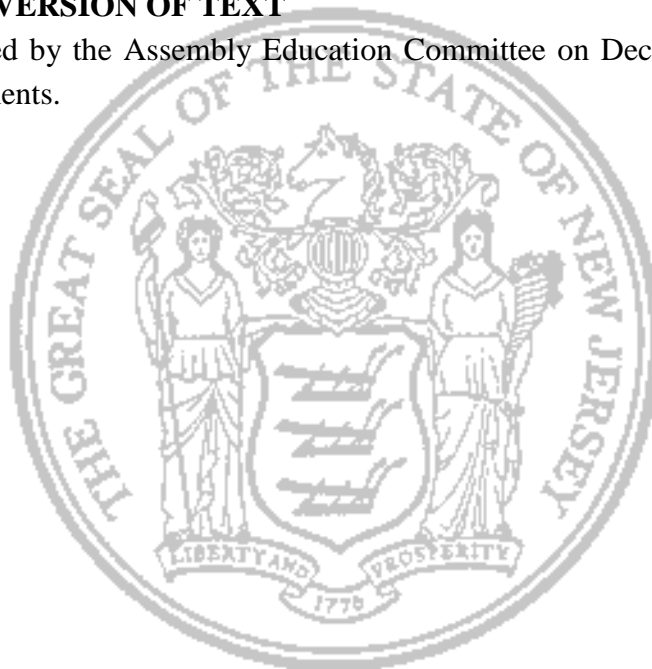
**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Education Committee on December 8, 2022, with amendments.



**(Sponsorship Updated As Of: 12/15/2022)**

1 AN ACT concerning the construction of school facilities projects,  
2 supplementing P.L.2000, c.72 (C.18A:7G-1 et al.) and chapter  
3 18A of Title 18A of the New Jersey Statutes, and amending  
4 various parts of the statutory law.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 <sup>1</sup>1. Section 2 of P.L.2000, c.72 (C.18A:7G-2) is amended to  
10 read as follows:

11 2. The Legislature finds and declares that:

12 a. The Constitution of the State of New Jersey requires the  
13 Legislature to provide for the maintenance and support of a  
14 thorough and efficient system of free public schools and this  
15 legislative responsibility includes ensuring that students are  
16 educated in physical facilities that are safe, healthy, and conducive  
17 to learning.

18 b. Inadequacies in the quality, utility, and safety of educational  
19 facilities have arisen among local school districts of this State. In  
20 order to ensure that the Legislature's constitutional responsibility  
21 for adequate educational facilities is met, there is a need to establish  
22 an efficiency standard for educational facilities at the elementary,  
23 middle, and secondary school levels which will assure that the core  
24 curriculum content standards are taught to all of the children of the  
25 State in a setting which facilitates and promotes that learning.

26 c. Educational infrastructure inadequacies are greatest in the  
27 SDA districts where maintenance has been deferred and new  
28 construction has not been initiated due to concerns about cost. To  
29 remedy the facilities inadequacies of the SDA districts, the State  
30 must promptly engage in a facilities needs assessment and fund the  
31 entire cost of repairing, renovating, and constructing the new school  
32 facilities determined by the Commissioner of Education to be  
33 required to meet the school facilities efficiency standards in the  
34 SDA districts. In other districts, the State must also identify need in  
35 view of anticipated growth in school population, and must  
36 contribute to the cost of the renovation and construction of new  
37 facilities to ensure the provision of a thorough and efficient  
38 education in those districts.

39 d. While providing that the educational infrastructure meets the  
40 requirements of a thorough and efficient education, the State must  
41 also protect the interests of taxpayers who will bear the burden of  
42 this obligation. Design of school facilities should incorporate  
43 maximum operating efficiencies and new technologies to advance  
44 the energy efficiency of school facilities and the efficiency of other

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AED committee amendments adopted December 8, 2022.

1 school building systems, construction should be achieved in as  
2 efficient a manner as possible while also ensuring that public funds  
3 spent on the construction of school facilities support a skilled  
4 workforce compensated at dignified wages, and a mechanism to  
5 assure proper maintenance of new facilities should be established  
6 and implemented, in order to reduce the overall cost of the program  
7 and to preserve this infrastructure investment.<sup>1</sup>

8 (cf: P.L.2007, c.260, s.38)

9

10 <sup>1</sup>**[1.] 2.**<sup>1</sup> Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended  
11 to read as follows:

12 3. As used in sections 1 through 30 and 57 through 71 of  
13 P.L.2000, c.72 (C.18A:7G-1 et al.) <sup>1</sup>**[and]**,<sup>1</sup>sections 14 through 17  
14 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48) <sup>1</sup>, and  
15 sections 5, 6, 8, 13, 16, and 20 through 24 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill)<sup>1</sup>, unless the context  
17 clearly requires a different meaning:

18 "Area cost allowance" means \$138 per square foot for the school  
19 year 2000-2001 and shall be inflated by an appropriate cost index  
20 for the 2001-2002 school year. For the 2002-2003 school year and  
21 subsequent school years, the area cost allowance shall be  
22 established by the commissioner pursuant to subsection h. of  
23 section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance  
24 used in determining preliminary eligible costs of school facilities  
25 projects shall be that of the year of application for approval of the  
26 project;

27 "Capital maintenance project" means a school facilities project  
28 intended to extend the useful life of a school facility, including up-  
29 grades and replacements of building systems, such as structure,  
30 enclosure, mechanical, plumbing and electrical systems;

31 "Charter school" means a school established pursuant to  
32 P.L.1995, c.426 (C.18A:36A-1 et seq.);

33 "Commissioner" means the Commissioner of Education;

34 "Core curriculum content standards" means the standards  
35 established pursuant to the provisions of subsection a. of section 4  
36 of P.L.2007, c.260 (C.18A:7F-46);

37 "Cost index" means the average annual increase, expressed as a  
38 decimal, in actual construction cost factors for the New York City  
39 and Philadelphia areas during the second fiscal year preceding the  
40 budget year as determined pursuant to regulations promulgated by  
41 the development authority pursuant to section 26 of P.L.2000, c.72  
42 (C.18A:7G-26);

43 "Debt service" means and includes payments of principal and  
44 interest upon school bonds issued to finance the acquisition of  
45 school sites and the purchase or construction of school facilities,  
46 additions to school facilities, or the reconstruction, remodeling,  
47 alteration, modernization, renovation or repair of school facilities,

1 including furnishings, equipment, architect fees and the costs of  
2 issuance of such obligations and shall include payments of principal  
3 and interest upon school bonds heretofore issued to fund or refund  
4 such obligations, and upon municipal bonds and other obligations  
5 which the commissioner approves as having been issued for such  
6 purposes. Debt service pursuant to the provisions of P.L.1978, c.74  
7 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.)  
8 and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

9 "Demonstration project" means a school facilities project  
10 selected by the State Treasurer for construction by a redevelopment  
11 entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

12 "Development authority" means the New Jersey Schools  
13 Development Authority established pursuant to section 3 of  
14 P.L.2007, c.137 (C.52:18A-237);

15 "District" means a local or regional school district established  
16 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
17 Statutes, a county special services school district established  
18 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey  
19 Statutes, a county vocational school district established pursuant to  
20 article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and  
21 a district under full State intervention pursuant to P.L.1987, c.399  
22 (C.18A:7A-34 et al.);

23 "District aid percentage" means the number expressed as a  
24 percentage derived from dividing the district's equalization aid  
25 calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53)  
26 as of the date of the commissioner's determination of preliminary  
27 eligible costs by the district's adequacy budget calculated pursuant  
28 to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the  
29 commissioner's determination of preliminary eligible costs;

30 "Excess costs" means the additional costs, if any, which shall be  
31 borne by the district, of a school facilities project which result from  
32 design factors that are not required to meet the facilities efficiency  
33 standards and not approved pursuant to paragraph (1) of subsection  
34 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized  
35 as community design features included in final eligible costs  
36 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-  
37 6);

38 "Facilities efficiency standards" means the standards developed  
39 by the commissioner pursuant to subsection h. of section 4 of  
40 P.L.2000, c.72 (C.18A:7G-4);

41 "Final eligible costs" means for school facilities projects to be  
42 constructed by the development authority, the final eligible costs of  
43 the school facilities project as determined by the commissioner, in  
44 consultation with the development authority, pursuant to section 5  
45 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the  
46 final eligible costs of the project as determined by the commissioner  
47 and reviewed by the development authority which may include the

1 cost of community design features determined by the commissioner  
2 to be an integral part of the school facility and which do not exceed  
3 the facilities efficiency standards, and which were reviewed by the  
4 development authority and approved by the State Treasurer  
5 pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); **[and]** for  
6 districts other than SDA districts, final eligible costs as determined  
7 pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000,  
8 c.72 (C.18A:7G-5) ; for school facilities projects of charter schools  
9 and renaissance school projects located in SDA districts, final  
10 eligible costs as determined pursuant to subsection c. of section  
11 '**[4]** 5<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill);

13 "Financing authority" means the New Jersey Economic  
14 Development Authority established pursuant to P.L.1974, c.80  
15 (C.34:1B-1 et seq.);

16 "FTE" means a full-time equivalent student which shall be  
17 calculated as follows: each student in grades 1 through 12 shall be  
18 counted at **[100%]** 100 percent of the actual count of students, in  
19 the case of districts which operate a half-day kindergarten program  
20 each kindergarten student shall be counted at **[50%]** 50 percent of  
21 the actual count of kindergarten students, in the case of districts  
22 which operate a full-day kindergarten program or which currently  
23 operate a half-day kindergarten program but propose to build  
24 facilities to house a full-day kindergarten program each  
25 kindergarten student shall be counted at **[100%]** 100 percent of the  
26 actual count of kindergarten students, and each preschool student  
27 who is enrolled in a full-day preschool program pursuant to section  
28 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at **[100%]**  
29 100 percent of the actual count of preschool students. In addition,  
30 each preschool disabled child who is entitled to receive a full-time  
31 program pursuant to N.J.S.18A:46-6 shall be counted at **[100%]**  
32 100 percent of the actual count of these students in the district;

33 "Functional capacity" means the number of students that can be  
34 housed in a building in order to have sufficient space for it to be  
35 educationally adequate for the delivery of programs and services  
36 necessary for student achievement of the core curriculum content  
37 standards. Functional capacity is determined by dividing the  
38 existing gross square footage of a school building by the minimum  
39 area allowance per FTE student pursuant to subsection b. of section  
40 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students  
41 contained therein. The difference between the projected enrollment  
42 determined pursuant to subsection a. of section 8 of P.L.2000, c.72  
43 (C.18A:7G-8) and the functional capacity is the unhoused students  
44 that are the basis upon which the additional costs of space to  
45 provide educationally adequate facilities for the entire projected  
46 enrollment are determined. The existing gross square footage for  
47 the purposes of defining functional capacity is exclusive of existing

1 spaces that are not contained in the facilities efficiency standards  
2 but which are used to deliver programs and services aligned to the  
3 core curriculum content standards, used to provide support services  
4 directly to students, or other existing spaces that the district can  
5 demonstrate would be structurally or fiscally impractical to convert  
6 to other uses contained in the facilities efficiency standards;

7 <sup>1</sup>“Kit of Parts’ standardized school design elements” means the  
8 prototypical design utilizing standardized Modern Building  
9 Component Elements, Model Educational Specifications, and  
10 Model Program Templates created by the development authority for  
11 the efficient, adaptable, and scalable organization and configuration  
12 of instructional, large group assembly, and other elements within a  
13 school facilities project.<sup>1</sup>

14 "Lease purchase payment" means and includes payment of  
15 principal and interest for lease purchase agreements in excess of  
16 five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2  
17 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to  
18 finance the purchase or construction of school facilities, additions  
19 to school facilities, or the reconstruction, remodeling, alteration,  
20 modernization, renovation or repair of school facilities, including  
21 furnishings, equipment, architect fees and issuance costs. Approved  
22 lease purchase agreements in excess of five years shall be accorded  
23 the same accounting treatment as school bonds;

24 "Local share" means, in the case of a school facilities project to  
25 be constructed by the development authority, the total costs less the  
26 State share as determined pursuant to section 5 of P.L.2000, c.72  
27 (C.18A:7G-5); in the case of a demonstration project, the total costs  
28 less the State share as determined pursuant to sections 5 and 6 of  
29 P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a  
30 school facilities project which shall be financed pursuant to section  
31 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State  
32 share as determined pursuant to that section;

33 "Local unit" means a county, municipality, board of education or  
34 any other political subdivision or instrumentality authorized to  
35 construct, operate and maintain a school facilities project and to  
36 borrow money for those purposes pursuant to law;

37 "Local unit obligations" means bonds, notes, refunding bonds,  
38 refunding notes, lease obligations and all other obligations of a  
39 local unit which are issued or entered into for the purpose of paying  
40 for all or a portion of the costs of a school facilities project,  
41 including moneys payable to the development authority;

42 "Long-range facilities plan" means the plan required to be  
43 submitted to the commissioner by a district pursuant to section 4 of  
44 P.L.2000, c.72 (C.18A:7G-4);

45 "Maintenance" means expenditures which are approved for  
46 repairs and replacements for the purpose of keeping a school  
47 facility open and safe for use or in its original condition, including

1 repairs and replacements to a school facility's heating, lighting,  
2 ventilation, security and other fixtures to keep the facility or  
3 fixtures in effective working condition. Maintenance shall not  
4 include capital maintenance or contracted custodial or janitorial  
5 services, expenditures for the cleaning of a school facility or its  
6 fixtures, the care and upkeep of grounds or parking lots, and the  
7 cleaning of, or repairs and replacements to, movable furnishings or  
8 equipment, or other expenditures which are not required to maintain  
9 the original condition over the school facility's useful life.  
10 Approved maintenance expenditures shall be as determined by the  
11 commissioner pursuant to regulations to be adopted by the  
12 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-  
13 26);

14 <sup>1</sup>“Materials and Systems Standards” means the development  
15 authority’s “Materials and Systems Standards Manual” and  
16 “Construction Details Manual,” which are:

17 a. intended to implement standardized designs in support of  
18 repeatable, durable, and cost-effective construction of school  
19 facilities projects;

20 b. comprised of “Design Requirements” prescribing the  
21 approved standards for selection of materials, systems, and  
22 equipment to be incorporated into a school facilities project; and

23 c. comprised of “Construction Details” containing standardized  
24 construction details for the construction of school facilities projects.

25 “Model Building Component Elements” means the development  
26 of standardized prototypical model room layouts for instructional,  
27 large group, and core component building elements.

28 “Model Educational Specifications” means the development of:

29 a. room educational specifications, which describe a school’s  
30 programs and activities, spatial relationships, and special  
31 environmental requirements for each space; and

32 b. room fit-out lists, which provide the number, type, and size  
33 of equipment, furniture, and fixtures contained in each room  
34 inclusive of the party responsible for providing them in a school  
35 facility.

36 “Model Program Templates” means the development of  
37 programmatic models that define the number and type of rooms and  
38 spaces to be provided in a school facility.<sup>1</sup>

39 “Model school design <sup>1</sup>program<sup>1</sup>” means the design standards  
40 <sup>1</sup>for school facilities projects comprised of the “Kit of Parts”  
41 standardized school design elements,<sup>1</sup> developed by the  
42 development authority <sup>1</sup>for the adaptable and scalable configuration  
43 and repeatable and efficient construction of school facilities  
44 projects,<sup>1</sup> pursuant to paragraph (2) of subsection h. of section 4 of  
45 P.L.2000, c.72 (C.18A:7G-4);

46 “Other allowable costs” means the costs of temporary facilities,  
47 site development, acquisition of land or other real property interests

1 necessary to effectuate the school facilities project, fees for the  
2 services of design professionals, including architects, engineers,  
3 construction managers and other design professionals, legal fees,  
4 financing costs and the administrative costs of the development  
5 authority and the financing authority or the district, charter school,  
6 or renaissance school project incurred in connection with the school  
7 facilities project;

8 "Other facilities" means athletic stadiums, swimming pools, ice  
9 rinks, any associated structures or related equipment tied to such  
10 facilities including, but not limited to, grandstands and night field  
11 lights, greenhouses, facilities used for non-instructional or non-  
12 educational purposes, and any structure, building, or facility used  
13 solely for school administration;

14 "Preliminary eligible costs" means the initial eligible costs of a  
15 school facilities project as calculated pursuant to the formulas set  
16 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise  
17 provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and  
18 which shall be deemed to include the costs of construction and other  
19 allowable costs;

20 <sup>1</sup>"Project charter" means the document that sets forth the scope,  
21 budget, and schedule of a school facilities project, as approved by  
22 the board of the development authority, and which is updated from  
23 time to time during the course of the school facilities project with  
24 board approval.<sup>1</sup>

25 "Redevelopment entity" means a redevelopment entity  
26 authorized by a municipal governing body to implement plans and  
27 carry out redevelopment projects in the municipality pursuant to the  
28 "Local Redevelopment and Housing Law," P.L.1992, c.79  
29 (C.40A:12A-1 et al.);

30 "Renaissance school project" means a school established  
31 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.);

32 "School bonds" means, in the case of a school facilities project  
33 which is to be constructed by the development authority, a  
34 redevelopment entity, or a district under section 15 of P.L.2000,  
35 c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a  
36 district to finance the local share; and, in the case of a school  
37 facilities project which is not to be constructed by the development  
38 authority or a redevelopment entity, or financed under section 15 of  
39 P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations  
40 issued by a district to finance the total costs;

41 "School enrollment" means the number of FTE students other  
42 than evening school students, including post-graduate students and  
43 post-secondary vocational students, who, on the last school day  
44 prior to October 16 of the current school year, are recorded in the  
45 registers of the school;

46 "School facility" means and includes any structure, building or  
47 facility used wholly or in part for educational purposes by a district



1 and facilities that physically support such structures, buildings and  
2 facilities, such as district wastewater treatment facilities, power  
3 generating facilities, and steam generating facilities, but shall  
4 exclude other facilities. “School facility” shall also mean any  
5 structure, building, or facility used wholly or in part for educational  
6 purposes that is owned or leased and operated by a charter school or  
7 renaissance school project and facilities that physically support such  
8 structures, buildings and facilities<sup>1</sup>, for which the charter school or  
9 renaissance school project is seeking the State share of funding  
10 pursuant to section 5 of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill)<sup>1</sup>;

12 "School facilities project" means the planning, acquisition,  
13 demolition, construction, improvement, alteration, modernization,  
14 renovation, reconstruction or capital maintenance of all or any part  
15 of a school facility or of any other personal property necessary for,  
16 or ancillary to, any school facility, and shall include fixtures,  
17 furnishings and equipment, and shall also include, but is not limited  
18 to, site acquisition, site development, the services of design  
19 professionals, such as engineers and architects, construction  
20 management, legal services, financing costs and administrative  
21 costs and expenses incurred in connection with the project;

22 "SDA district" is a district that received education opportunity  
23 aid or preschool expansion aid in the 2007-2008 school year;

24 "Special education services pupil" means a pupil receiving  
25 specific services pursuant to chapter 46 of Title 18A of the New  
26 Jersey Statutes;

27 "State aid" means State municipal aid and State school aid;

28 "State debt service aid" means for school bonds issued for school  
29 facilities projects approved by the commissioner after the effective  
30 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect  
31 not to have a redevelopment entity construct the project or which  
32 elect not to finance the project under section 15 of P.L.2000, c.72  
33 (C.18A:7G-15), the amount of State aid determined pursuant to  
34 section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or  
35 certificates of participation issued for school facilities projects  
36 approved by the commissioner prior to the effective date of  
37 P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid  
38 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-  
39 10);

40 "State municipal aid" means business personal property tax  
41 replacement revenues, State urban aid and State revenue sharing, as  
42 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3),  
43 or other similar forms of State aid payable to the local unit and to  
44 the extent permitted by federal law, federal moneys appropriated or  
45 apportioned to the municipality or county by the State;

46 "State school aid" means the funds made available to school  
47 districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

1 "State share" means the State's proportionate share of the final  
 2 eligible costs of a school facilities project to be constructed by the  
 3 development authority as determined pursuant to section 5 of  
 4 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration  
 5 project, the State's proportionate share of the final eligible costs of  
 6 the project as determined pursuant to sections 5 and 6 of P.L.2000,  
 7 c.72 (C.18A:7G-5 and C.18A:7G-6); **[and]** in the case of a school  
 8 facilities project to be financed pursuant to section 15 of P.L.2000,  
 9 c.72 (C.18A:7G-15), the State share as determined pursuant to that  
 10 section ; and in the case of a school facilities project of a charter  
 11 school or renaissance school project in an SDA district, the State  
 12 share as determined pursuant to section <sup>1</sup>**[4]** <sup>1</sup>5<sup>1</sup> of P.L. \_\_\_\_\_,  
 13 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);

14 "Total costs" means, in the case of a school facilities project  
 15 which is to be constructed by the development authority or a  
 16 redevelopment entity or financed pursuant to section 15 of  
 17 P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess  
 18 costs if any; and in the case of a school facilities project which is  
 19 not to be constructed by the development authority or a  
 20 redevelopment entity or financed pursuant to section 15 of  
 21 P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as  
 22 determined by the district.

23 (cf: P.L.2007, c.260, s.39)

24  
 25 <sup>1</sup>**[2.]** <sup>1</sup>3.<sup>1</sup> Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended  
 26 to read as follows:

27 4. a. (1) By December 15, 2000 and by October 1, 2005, each  
 28 district shall prepare and submit to the commissioner a long-range  
 29 facilities plan that details the district's school facilities needs and  
 30 the district's plan to address those needs for the ensuing five years.  
 31 Following the approval of the 2005 long-range facilities plan, each  
 32 district shall amend its long-range facilities plan at least once every  
 33 five years to update enrollment projections, building capacities, and  
 34 health and safety conditions. The long-range facilities plan shall  
 35 incorporate the facilities efficiency standards and shall be filed with  
 36 the commissioner for approval in accordance with those standards.  
 37 For those Abbott districts that have submitted long-range facilities  
 38 plans to the commissioner prior to the effective date of P.L.2000,  
 39 c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require  
 40 an additional filing by October 1, 2000.

41 (2) <sup>1</sup>(a)<sup>1</sup> Every <sup>1</sup>**[long-rang]** <sup>1</sup>long-range<sup>1</sup> facilities plan  
 42 submitted to the commissioner after the effective date of P.L. \_\_\_\_\_,  
 43 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), including  
 44 any amendment thereto, shall include a capital improvement plan  
 45 for each public school within the district. At a minimum, the  
 46 capital improvement plan shall indicate the enrollment projections,  
 47 building capacities, and health and safety conditions of each public

1 school within the district, as well as the school facilities needs of  
2 each school.

3 <sup>1</sup>(b) Beginning in the 2025-2026 school year and for each school  
4 year thereafter, a school district, as part of its comprehensive  
5 review conducted under the New Jersey Quality Single  
6 Accountability Continuum administered pursuant to section 10 of  
7 P.L.1975, c.212 (C.18A:7A-10), shall certify that it has included in  
8 its most recent long-range facilities plan a capital improvement plan  
9 for each public school within the district in accordance with the  
10 provisions of subparagraph (a) of this paragraph. Notwithstanding  
11 the provisions of this paragraph to the contrary, an SDA district  
12 shall not be required to complete a capital improvement plan for a  
13 school that is part of an SDA district school facilities project  
14 included in the most recent Statewide strategic plan developed  
15 pursuant to paragraphs (2) and (3) of subsection m. of section 5 of  
16 P.L.2000, c.72 (C.18A:7G-5).<sup>1</sup>

17 b. Notwithstanding any other law or regulation to the contrary,  
18 an application for a school facilities project pursuant to section 5 of  
19 P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the  
20 district has filed a long-range facilities plan that is consistent with  
21 the application and the plan has been approved by the  
22 commissioner; except that prior to October 1, 2000, the  
23 commissioner may approve an application if the project is necessary  
24 to protect the health or safety of occupants of the school facility, or  
25 is related to required early childhood education programs, or is  
26 related to a school facility in which the functional capacity is less  
27 than **[90%]** 90 percent of the facilities efficiency standards based  
28 on current school enrollment, or the district received bids on the  
29 school facilities project prior to the effective date of P.L.2000, c.72  
30 (C.18A:7G-1 et al.) and the district demonstrates that further delay  
31 will negatively affect the cost of the project.

32 c. An amendment to a long-range facilities plan may be  
33 submitted at any time to the commissioner for review and  
34 determination on the approval or disapproval of the amendment.

35 d. Each long-range facilities plan shall include a cohort  
36 survival methodology or other methodology approved by the  
37 commissioner, accompanied by a certification by a qualified  
38 demographer retained by the district that serves as the basis for  
39 identifying the capacity and program needs detailed in the long-  
40 range facilities plan.

41 e. The long-range facilities plan shall include an educational  
42 adequacy inventory of all existing school facilities in the district  
43 including the adequacy of school facilities to educate within the  
44 district the existing and projected number of pupils with disabilities,  
45 the identification of all deficiencies in the district's current  
46 inventory of school facilities, which includes the identification of  
47 those deficiencies that involve emergent health and safety concerns,

1 and the district's proposed plan for future construction and  
2 renovation. The long-range facilities plan submissions shall  
3 conform to the guidelines, criteria and format prescribed by the  
4 commissioner.

5 f. Each district shall determine the number of "unhoused  
6 students" for the ensuing five-year period calculated pursuant to the  
7 provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

8 g. Each district shall submit the long-range facilities plan to the  
9 planning board of the municipality or municipalities in which the  
10 district is situate for the planning board's review and findings and  
11 the incorporation of the plan's goals and objectives into the  
12 municipal master plan adopted by the municipality pursuant to  
13 section 19 of P.L.1975, c.291 (C.40:55D-28).

14 h. (1) The commissioner shall develop, for the March 2002  
15 Report on the Cost of Providing a Thorough and Efficient  
16 Education issued by the commissioner pursuant to section 4 of  
17 P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for  
18 elementary, middle, and high schools consistent with the core  
19 curriculum school delivery assumptions in the report and sufficient  
20 for the achievement of the core curriculum content standards,  
21 including the provision of required programs in Abbott districts and  
22 early childhood education programs in the districts in which these  
23 programs are required by the State. The area allowances per FTE  
24 student in each class of the district shall be derived from these  
25 facilities efficiency standards. The commissioner shall revise the  
26 facilities efficiency standards and the area cost allowance in  
27 accordance with such schedule as the commissioner deems  
28 necessary. The commissioner shall publish the revised facilities  
29 efficiency standards and the area cost allowance in the New Jersey  
30 Register and, within a reasonable period of time after 30 days  
31 following publication, shall file the revised facilities efficiency  
32 standards and the area cost allowance with the Office of  
33 Administrative Law for publication in the New Jersey Register and  
34 those standards shall become effective immediately upon filing.  
35 During the 30-day period the commissioner shall provide an  
36 opportunity for public comment on the proposed facilities  
37 efficiency standards and the area cost allowance.

38 The facilities efficiency standards developed by the  
39 commissioner shall not be construction design standards but rather  
40 shall represent the instructional spaces, specialized instructional  
41 areas, and administrative spaces that are determined by the  
42 commissioner to be educationally adequate to support the  
43 achievement of the core curriculum content standards including the  
44 provision of required programs in Abbott districts and early  
45 childhood education programs in the districts in which these  
46 programs are required by the State. A district may design, at its  
47 discretion, the educational and other spaces to be included within

1 the school facilities project. The design of the project may  
2 eliminate spaces in the facilities efficiency standards, include  
3 spaces not in the facilities efficiency standards, or size spaces  
4 differently than in the facilities efficiency standards upon a  
5 demonstration of the adequacy of the school facilities project to  
6 deliver the core curriculum content standards pursuant to paragraph  
7 (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

8 Within a reasonable period of time after the effective date of  
9 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish  
10 the facilities efficiency standards developed for the 2000-2001,  
11 2001-2002, and 2002-2003 school years in the New Jersey Register.  
12 Within a reasonable period of time after 30 days after publication in  
13 the New Jersey Register, the commissioner shall file the facilities  
14 efficiency standards with the Office of Administrative Law and  
15 those standards shall become effective immediately upon filing with  
16 the Office of Administrative Law. During the 30-day period the  
17 commissioner shall provide an opportunity for public comment on  
18 the proposed facilities efficiency standards.

19 (2) Within 120 days of the effective date of P.L. ,  
20 c. (C. ) (pending before the Legislature as this bill), the  
21 development authority, in consultation with the commissioner, shall  
22 '[develop three] promulgate a<sup>1</sup> model school '[designs for the  
23 construction of elementary, middle, and high schools, respectively.  
24 The model school designs] design program that<sup>1</sup> shall establish  
25 uniform standards for the exterior and interior design of '[each  
26 category of]'<sup>1</sup> school facilities projects. The development  
27 authority<sup>1</sup> [, in consultation with the commissioner,]<sup>1</sup> may revise  
28 the model school '[designs] design program<sup>1</sup> as the development  
29 authority deems necessary<sup>1</sup> [. In addition to any other  
30 considerations that the development authority may deem  
31 appropriate, the model school designs shall: (a) not include  
32 immodest or irregularly-shaped structures, including facades,  
33 windows, and courtyards, which contribute to unnecessary and  
34 imprudent construction costs; and (b) prioritize the utilization of  
35 vertical construction designs over horizontal construction designs,  
36 which designs preserve green space and maximize land use] to  
37 incorporate advances or improvements in materials, technology,  
38 construction methods, or educational standards<sup>1</sup>.

39 i. Within 90 days of the commissioner's receipt of a long-range  
40 facilities plan for review, the commissioner shall determine whether  
41 the plan is fully and accurately completed and whether all  
42 information necessary for a decision on the plan has been filed by  
43 the district. If the commissioner determines that the plan is  
44 complete, the commissioner shall promptly notify the district in  
45 writing and shall have 60 days from the date of that notification to  
46 determine whether to approve the plan or not. If the commissioner  
47 determines that the plan is not complete, the commissioner shall

1 notify the district in writing. The district shall provide to the  
2 commissioner whatever information the commissioner determines is  
3 necessary to make the plan accurate and complete. The district  
4 shall submit that information to the commissioner, and the  
5 commissioner shall have 60 days from the date of receipt of  
6 accurate and complete information to determine whether to approve  
7 the plan or not.

8 j. Notwithstanding any provision in subsection i. of this  
9 section, if at any time the number of long-range facilities plans filed  
10 by school districts with the commissioner and pending review  
11 exceeds ~~20%~~ 20 percent of the number of school districts in New  
12 Jersey, the commissioner may extend by 60 days the deadline for  
13 reviewing each plan pending at that time.

14 k. (Deleted by amendment, P.L.2007, c.260).

15 l. By July 1, 2001, the commissioner shall provide the  
16 Legislature with recommendations to address the circumstances of  
17 districts which are contiguous with two or more Abbott districts.  
18 The recommendations shall address the issues of the financing of  
19 school facilities projects and the funding of the educational and  
20 other programs required within these districts as a result of their  
21 unique demographic situation.

22 m. By July 1, 2001, the commissioner shall study the Safe  
23 Schools Design Guidelines, prepared by the Florida Center for  
24 Community Design and Research, which address the issues of  
25 school safety and security through the design of school facilities.  
26 Based upon the commissioner's study, the commissioner shall issue  
27 recommendations to districts on the appropriateness of including  
28 the Safe Schools Design Guidelines in the design and construction  
29 of school facilities projects.

30 (cf: P.L.2007, c.260, s.40)

31

32 <sup>1</sup>[3. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to  
33 read as follows:

34 5. a. The development authority shall undertake and the  
35 financing authority shall finance the school facilities projects of  
36 SDA districts.

37 b. In the case of a district other than an SDA district, State  
38 support for the project shall be determined pursuant to section 9 or  
39 section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as  
40 applicable.

41 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
42 contrary, the procedures for obtaining approval of a school facilities  
43 project shall be as set forth in ~~the act~~ P.L.2000, c.72 (C.18A:7G-  
44 1 et al.); provided that any district whose school facilities project is  
45 not constructed by the development authority shall also be required  
46 to comply with the provisions of N.J.S.18A:18A-16 and shall be  
47 overseen by a non-conflicted construction management service

1 provider, which may include a county improvement authority and  
2 private professional service firm, who shall serve from initial  
3 application to the commissioner for approval of the project through  
4 project completion.

5 d. (1) Any district seeking to initiate a school facilities project  
6 shall apply to the commissioner for approval of the project. The  
7 application may include, but not be limited to: a description of the  
8 school facilities project; a schematic drawing of the project or, at  
9 the option of the district, preliminary plans and specifications; a  
10 delineation and description of each of the functional components of  
11 the project; educational specifications detailing the programmatic  
12 needs of each proposed space; the number of unhoused students to  
13 be housed in the project; the area allowances per FTE student as  
14 calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8);  
15 and the estimated cost to complete the project as determined by the  
16 district.

17 (2) (a) In the case of an SDA district school facilities project,  
18 **【based upon its educational priority ranking and the Statewide**  
19 **strategic plan established pursuant to subsection m. of this section,**  
20 **the commissioner may authorize】** the district shall not submit an  
21 application for commissioner approval until the project has been  
22 authorized by the Legislature pursuant to subparagraph (e) of  
23 paragraph (3) of subsection m. of this section. If the district  
24 submits an application before the project has been authorized  
25 pursuant to that subparagraph, the application shall not be deemed  
26 to be fully and accurately completed until the date of such  
27 authorization. The development authority 【to】 may undertake  
28 **【preconstruction activities which may include, but need not be**  
29 **limited to, site identification, investigation, and acquisition,**  
30 **feasibility studies, land-related design work, design work, site**  
31 **remediation, demolition, and acquisition of temporary facilities】**  
32 site identification and investigation for the project before a staff  
33 allocation plan has been authorized by the Legislature. Upon  
34 receipt of the authorization, the development authority may 【initiate  
35 **the】 undertake any other** preconstruction activities required to  
36 prepare the application for commissioner approval of the school  
37 facilities project, which activities may include, but need not be  
38 limited to, site acquisition, feasibility studies, land-related design  
39 work, design work, site remediation, demolition, and acquisition of  
40 temporary facilities.

41 (b) In the case of an SDA district school facilities project, the  
42 project design shall conform to a model school design developed by  
43 the development authority pursuant to paragraph (2) of subsection  
44 h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), except that the  
45 model school design may be modified to accommodate the capacity  
46 needs of the project, provided that such modifications shall comply  
47 with the facilities efficiency standards and the area allowances per

1 FTE student derived from those standards. In the event that the  
2 SDA district school facilities project requires the implementation of  
3 certain immodest or irregularly-shaped structures, but otherwise  
4 conforms to a model school design, the development authority shall  
5 approve the immodest or irregularly-shaped structures prior to the  
6 submission of the project to the Legislature for authorization  
7 pursuant to subparagraph (e) of paragraph (3) of subsection m. of  
8 this section and shall provide an attestation that the implementation  
9 of the structures is necessary for the purposes of completing the  
10 SDA district school facilities project.

11 (c) In the case of a district other than an SDA district, the  
12 project design of the school facilities project may conform to a  
13 model school design developed by the development authority  
14 pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000,  
15 c.72 (C.18A:7G-4), with any modifications authorized under  
16 subparagraph (b) of this paragraph. If the project conforms to a  
17 model school design or conforms to a model design with any  
18 modification authorized under subparagraph (b) of this paragraph,  
19 the district's district aid percentage shall be increased by 15  
20 percent. In the event that the school facilities project requires the  
21 implementation of certain immodest or irregularly-shaped  
22 structures, but otherwise conforms to a model school design, the  
23 development authority shall review the immodest or irregularly-  
24 shaped structures under the district's proposal. If the development  
25 authority approves the immodest or irregularly-shaped structures  
26 under the proposed school facilities project, the district shall  
27 continue to be eligible for the increased district aid percentage  
28 provided under this subparagraph.

29 e. (1) The commissioner shall review each proposed school  
30 facilities project to determine whether it is consistent with the  
31 district's long-range facilities plan and whether it complies with the  
32 facilities efficiency standards and the area allowances per FTE  
33 student derived from those standards; and in the case of an SDA  
34 district, the commissioner shall also review **the project's**  
35 **educational priority ranking and the Statewide strategic plan**  
36 **developed** whether the project complies with the model school  
37 design standards and contains any modifications authorized  
38 pursuant to subparagraph (b) of paragraph (2) of subsection d. of  
39 this section, whether the project received the necessary approvals  
40 for the implementation of immodest or irregularly-shaped structures  
41 under subparagraph (b) of paragraph (2) of subsection d. of this  
42 section, and whether the project has been authorized by the  
43 Legislature pursuant to **paragraphs (2) and** subparagraph (e) of  
44 paragraph (3) of subsection m. of this section; and in the case of a  
45 district other than an SDA district the commissioner shall also  
46 review the project's priority pursuant to paragraph (4) of subsection  
47 m. of this section.



1       (2) The commissioner shall make a decision on a district's  
2 application within 90 days from the date **[he]** the commissioner  
3 determines that the application is fully and accurately completed  
4 and that all information necessary for a decision has been filed by  
5 the district, or from the date of the last revision made by the district.  
6 If the commissioner is not able to make a decision within 90 days,  
7 **[he]** the commissioner shall notify the district in writing explaining  
8 the reason for the delay and indicating the date on which a decision  
9 on the project will be made, provided that the date shall not be later  
10 than 60 days from the expiration of the original 90 days set forth in  
11 this subsection. If the decision is not made by the subsequent date  
12 indicated by the commissioner, then the project shall be deemed  
13 approved and the preliminary eligible costs for new construction  
14 shall be calculated by using the proposed square footage of the  
15 building as the approved area for unhoused students.

16       f. If the commissioner determines that the school facilities  
17 project complies with the facilities efficiency standards and the  
18 district's long-range facilities plan and does not exceed the area  
19 allowance per FTE student derived from those standards, the  
20 commissioner shall calculate the preliminary eligible costs of the  
21 project pursuant to the formulas set forth in section 7 of P.L.2000,  
22 c.72 (C.18A:7G-7); except that (1) in the case of a county special  
23 services school district or a county vocational school district, the  
24 commissioner shall calculate the preliminary eligible costs to equal  
25 the amount determined by the board of school estimate and  
26 approved by the board of chosen freeholders pursuant to section 14  
27 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as  
28 appropriate, and (2) in the case of an SDA district, the  
29 commissioner shall calculate the preliminary eligible costs to equal  
30 the estimated cost as determined by the development authority,  
31 provided that such costs shall not exceed the amounts authorized by  
32 the Legislature pursuant to subparagraph (e) of paragraph (3) of  
33 subsection m. of this section.

34       g. If the commissioner determines that the school facilities  
35 project is inconsistent with the facilities efficiency standards or  
36 exceeds the area allowances per FTE student derived from those  
37 standards, the commissioner shall notify the district.

38       (1) The commissioner shall approve area allowances in excess  
39 of the area allowances per FTE student derived from the facilities  
40 efficiency standards if the board of education or State district  
41 superintendent, as appropriate, demonstrates that school facilities  
42 needs related to required programs cannot be addressed within the  
43 facilities efficiency standards and that all other proposed spaces are  
44 consistent with those standards. The commissioner shall approve  
45 area allowances in excess of the area allowances per FTE student  
46 derived from the facilities efficiency standards if the additional area  
47 allowances are necessary to accommodate centralized facilities to

1 be shared among two or more school buildings within the district  
2 and the centralized facilities represent a more cost effective  
3 alternative.

4 (2) The commissioner may waive a facilities efficiency standard  
5 if the board of education or State district superintendent, as  
6 appropriate, demonstrates to the commissioner's satisfaction that the  
7 waiver will not adversely affect the educational adequacy of the  
8 school facility, including the ability to deliver the programs and  
9 services necessary to enable all students to achieve the core  
10 curriculum content standards.

11 (3) To house the district's central administration, a district may  
12 request an adjustment to the approved areas for unhoused students  
13 of 2.17 square feet for each FTE student in the projected total  
14 district school enrollment if the proposed administrative offices will  
15 be housed in a school facility and the district demonstrates either  
16 that the existing central administrative offices are obsolete or that it  
17 is more practical to convert those offices to instructional space. To  
18 the extent that existing administrative space will continue to be used  
19 for administrative purposes, the space shall be included in the  
20 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

21 If the commissioner approves excess facilities efficiency  
22 standards or additional area allowances pursuant to paragraph (1),  
23 (2), or (3) of this subsection, the commissioner shall calculate the  
24 preliminary eligible costs based upon the additional area allowances  
25 or excess facilities efficiency standards pursuant to the formulas set  
26 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that  
27 the commissioner does not approve the excess facilities efficiency  
28 standards or additional area allowances, the district may either:  
29 modify its submission so that the school facilities project meets the  
30 facilities efficiency standards; or pay for the excess costs.

31 (4) The commissioner shall approve spaces in excess of, or  
32 inconsistent with, the facilities efficiency standards, hereinafter  
33 referred to as nonconforming spaces, upon a determination by the  
34 district that the spaces are necessary to comply with State or federal  
35 law concerning individuals with disabilities, including that the  
36 spaces are necessary to provide in-district programs and services for  
37 current disabled pupils who are being served in out-of-district  
38 placements or in-district programs and services for the projected  
39 disabled pupil population. A district may apply for additional State  
40 aid for nonconforming spaces that will permit pupils with  
41 disabilities to be educated to the greatest extent possible in the same  
42 buildings or classes with their nondisabled peers. The  
43 nonconforming spaces may: (a) allow for the return of pupils with  
44 disabilities from private facilities; (b) permit the retention of pupils  
45 with disabilities who would otherwise be placed in private facilities;  
46 (c) provide space for regional programs in a host school building  
47 that houses both disabled and nondisabled pupils; and (d) provide

1 space for the coordination of regional programs by a county special  
2 services school district, educational services commission, jointure  
3 commission, or other agency authorized by law to provide regional  
4 educational services in a school building that houses both disabled  
5 and nondisabled pupils. A district's State support ratio shall be  
6 adjusted to equal the lesser of the sum of its district aid percentage  
7 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or  
8 **【100%】** 100 percent for any nonconforming spaces approved by the  
9 commissioner pursuant to this paragraph.

10 h. Upon approval of a school facilities project and  
11 determination of the preliminary eligible costs:

12 (1) In the case of a district other than an SDA district, the  
13 commissioner shall notify the district whether the school facilities  
14 project is approved and, if so approved, the preliminary eligible  
15 costs and the excess costs, if any. Following the determination of  
16 preliminary eligible costs and the notification of project approval,  
17 the district may appeal to the commissioner for an increase in those  
18 costs if the detailed plans and specifications completed by a design  
19 professional for the school facilities project indicate that the cost of  
20 constructing that portion of the project which is consistent with the  
21 facilities efficiency standards and does not exceed the area  
22 allowances per FTE student exceeds the preliminary eligible costs  
23 as determined by the commissioner for the project by **【10%】** 10  
24 percent or more. The district shall file its appeal within 30 days of  
25 the preparation of the plans and specifications. If the district  
26 chooses not to file an appeal, then the final eligible costs shall equal  
27 the preliminary eligible costs.

28 The appeal shall outline the reasons why the preliminary eligible  
29 costs calculated for the project are inadequate and estimate the  
30 amount of the adjustment which needs to be made to the  
31 preliminary eligible costs. The commissioner shall forward the  
32 appeal information to the development authority for its review and  
33 recommendation. If the additional costs are the result of factors  
34 that are within the control of the district or are the result of design  
35 factors that are not required to meet the facilities efficiency  
36 standards, the development authority shall recommend to the  
37 commissioner that the preliminary eligible costs be accepted as the  
38 final eligible costs. If the development authority determines the  
39 additional costs are not within the control of the district or are the  
40 result of design factors required to meet the facilities efficiency  
41 standards, the development authority shall recommend to the  
42 commissioner a final eligible cost based on its experience for  
43 districts with similar characteristics, provided that, notwithstanding  
44 anything to the contrary, the commissioner shall not approve an  
45 adjustment to the preliminary eligible costs which exceeds **【10%】**  
46 10 percent of the preliminary eligible costs. The commissioner  
47 shall make a determination on the appeal within 30 days of its

1 receipt. If the commissioner does not approve an adjustment to the  
2 school facilities project's preliminary eligible costs, the  
3 commissioner shall issue his findings in writing on the reasons for  
4 the denial and on why the preliminary eligible costs as originally  
5 calculated are sufficient.

6 (2) In the case of an SDA district, the commissioner shall  
7 promptly prepare and submit to the development authority a  
8 preliminary project report which shall consist, at a minimum, of the  
9 following information: a complete description of the school  
10 facilities project; the actual location of the project; the total square  
11 footage of the project together with a breakdown of total square  
12 footage by functional component; the preliminary eligible costs of  
13 the project; the maximum final eligible costs of the project, as  
14 authorized by the Legislature; the maximum full-time equivalent  
15 employees who may be allocated to the project, as authorized by the  
16 Legislature; the project's priority ranking determined pursuant to  
17 subsection m. of this section; any other factors to be considered by  
18 the development authority in undertaking the project; and the name  
19 and address of the person from the district to contact in regard to  
20 the project.

21 i. Upon receipt by the development authority of the  
22 preliminary project report, the development authority, upon  
23 consultation with the district, shall prepare detailed plans and  
24 specifications and schedules which contain the development  
25 authority's estimated cost and schedule to complete the school  
26 facilities project. The development authority shall transmit to the  
27 commissioner its recommendations in regard to the project which  
28 shall, at a minimum, contain the detailed plans and specifications;  
29 whether the school facilities project can be completed within the  
30 preliminary eligible costs; and any other factors which the  
31 development authority determines should be considered by the  
32 commissioner.

33 (1) In the event that the development authority determines that  
34 the school facilities project can be completed within the preliminary  
35 eligible costs: the final eligible costs shall be deemed to equal the  
36 preliminary eligible costs; the commissioner shall be deemed to  
37 have given final approval to the project; and the preliminary project  
38 report shall be deemed to be the final project report delivered to the  
39 development authority pursuant to subsection j. of this section.

40 (2) In the event that the development authority determines that  
41 the school facilities project cannot be completed within the  
42 preliminary eligible costs, prior to the submission of its  
43 recommendations to the commissioner, the development authority  
44 shall, in consultation with the district and the commissioner,  
45 determine whether changes can be made in the project which will  
46 result in a reduction in costs while at the same time meeting the  
47 facilities efficiency standards approved by the commissioner.

1 (a) If the development authority determines that changes in the  
2 school facilities project are possible so that the project can be  
3 accomplished within the scope of the preliminary eligible costs  
4 while still meeting the facilities efficiency standards, the  
5 development authority shall so advise the commissioner, whereupon  
6 the commissioner shall: calculate the final eligible costs to equal the  
7 preliminary eligible costs; give final approval to the project with the  
8 changes noted; and issue a final project report to the development  
9 authority pursuant to subsection j. of this section.

10 (b) If the development authority determines that it is not  
11 possible to make changes in the school facilities project so that it  
12 can be completed within the preliminary eligible costs either  
13 because the additional costs are the result of factors outside the  
14 control of the district or the additional costs are required to meet the  
15 facilities efficiency standards, the development authority shall  
16 recommend to the commissioner that the preliminary eligible costs  
17 be increased accordingly, whereupon the commissioner shall:  
18 calculate the final eligible costs to equal the sum of the preliminary  
19 eligible costs plus the increase recommended by the development  
20 authority; give final approval to the project, provided that the final  
21 eligible costs do not exceed the amounts authorized for expenditure  
22 by the Legislature pursuant to subparagraph (e) of paragraph (3) of  
23 subsection m. of this section; and issue a final project report to the  
24 development authority pursuant to subsection j. of this section.

25 (c) If the additional costs are the result of factors that are within  
26 the control of the district or are the result of design factors that are  
27 not required to meet the facilities efficiency standards or approved  
28 pursuant to paragraph (1) of subsection g. of this section, the  
29 development authority shall recommend to the commissioner that  
30 the preliminary eligible costs be accepted, whereupon the  
31 commissioner shall: calculate the final eligible costs to equal the  
32 preliminary eligible costs and specify the excess costs which are to  
33 be borne by the district; give final approval to the school facilities  
34 project; and issue a final project report to the development authority  
35 pursuant to subsection j. of this section; provided that the  
36 commissioner may approve final eligible costs which are in excess  
37 of the preliminary eligible costs if, in his judgment, the action is  
38 necessary to meet the educational needs of the district, provided  
39 that such costs shall not exceed the amounts authorized for  
40 expenditure by the Legislature pursuant to subparagraph (e) of  
41 paragraph (3) of subsection m. of this section.

42 (d) For a school facilities project undertaken by the  
43 development authority, the development authority shall be  
44 responsible for any costs of construction, but only from the  
45 proceeds of bonds issued by the financing authority pursuant to  
46 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
47 235 et al.), which exceed the amount originally projected by the

1 development authority and approved for financing by the  
2 development authority, provided that the excess is the result of an  
3 underestimate of labor or materials costs by the development  
4 authority. After receipt by the development authority of the final  
5 project report, the district shall be responsible only for the costs  
6 associated with changes, if any, made at the request of the district to  
7 the scope of the school facilities project.

8 j. The development authority shall not commence the  
9 construction of a school facilities project unless the commissioner  
10 transmits to the development authority a final project report and the  
11 district complies with the approval requirements for the local share,  
12 if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11).  
13 The final project report shall contain all of the information  
14 contained in the preliminary project report and, in addition, shall  
15 contain: the final eligible costs; the excess costs, if any; the total  
16 costs which equals the final eligible costs plus excess costs, if any;  
17 the State share; and the local share.

18 k. For the SDA districts, the State share shall be ~~【100%】~~ 100  
19 percent of the final eligible costs. Except as otherwise provided  
20 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other  
21 districts, the State share shall be an amount equal to the district aid  
22 percentage; except that the State share shall not be less than ~~【40%】~~  
23 40 percent of the final eligible costs.

24 If any district which is included in district factor group A or B,  
25 other than an SDA district, is having difficulty financing the local  
26 share of a school facilities project, the district may apply to the  
27 commissioner to receive ~~【100%】~~ 100 percent State support for the  
28 project and the commissioner may request the approval of the  
29 Legislature to increase the State share of the project to ~~【100%】~~ 100  
30 percent.

31 l. The local share for school facilities projects constructed by  
32 the authority or a redevelopment entity shall equal the final eligible  
33 costs plus any excess costs less the State share.

34 m. (1) Within 90 days of the effective date of P.L.2007, c.137  
35 (C.52:18A-235 et al.), the commissioner shall develop an  
36 educational facilities needs assessment for each SDA district. The  
37 assessment shall be updated periodically by the commissioner in  
38 accordance with the schedule the commissioner deems appropriate  
39 for the district; except that each assessment shall at a minimum be  
40 updated within five years of the development of the district's most  
41 recent prior educational facilities needs assessment. The  
42 assessment shall be transmitted to the development authority to be  
43 used to initiate the planning activities required prior to the  
44 establishment of the educational priority ranking of school facilities  
45 projects pursuant to paragraph (2) of this subsection.

46 (2) Following the approval of an SDA district's long-range  
47 facilities plan or of an amendment to that plan, but prior to

1 authorization of preconstruction activities for a school facilities  
2 project included in the plan or amendment, the commissioner shall  
3 establish, in consultation with the SDA district, an educational  
4 priority ranking of all school facilities projects in the SDA district  
5 based upon the commissioner's determination of critical need in  
6 accordance with priority project categories developed by the  
7 commissioner. The priority project categories shall include, but not  
8 be limited to, health and safety, overcrowding in the early  
9 childhood, elementary, middle, and high school grade levels, spaces  
10 necessary to provide in-district programs and services for current  
11 disabled students who are being served in out-of-district placements  
12 or in-district programs and services for the projected disabled  
13 student population, rehabilitation, and educational adequacy.

14 (3) (a) Upon the commissioner's determination of the  
15 educational priority ranking of school facilities projects in SDA  
16 districts pursuant to paragraph (2) of this subsection, the  
17 development authority, in consultation with the commissioner, the  
18 SDA districts, and the governing bodies of the municipalities in  
19 which the SDA districts are situate, shall establish a Statewide  
20 strategic plan to be used in the sequencing of SDA district school  
21 facilities projects based upon the projects' educational priority  
22 rankings and issues which impact the development authority's  
23 ability to complete the projects including, but not limited to, the  
24 construction schedule and other appropriate factors. The  
25 development authority shall revise the Statewide strategic plan and  
26 the sequencing of SDA district school facilities projects in  
27 accordance with that plan no less than once every five years, except  
28 that the plan shall be updated within 120 days of the effective date  
29 of P.L. , c. (C. ) (pending before the Legislature as this  
30 bill). In addition to any other information that the development  
31 authority may deem appropriate, the Statewide strategic plan shall  
32 include the following information for each project: (i) a description  
33 of the project, which shall indicate whether the project will be new  
34 construction or renovation and whether the project will require the  
35 acquisition of land; (ii) the total estimated project costs; and (iii) the  
36 number of full-time equivalent staff needed to support the project.

37 (b) In developing the Statewide strategic plan, the development  
38 authority shall prioritize: (i) new construction projects; (ii) projects  
39 located on land owned by the school district or other public entities;  
40 and (iii) projects needed to replace school buildings that have been  
41 in use for 50 or more years.

42 (c) Any amendment to an SDA district's long-range facilities  
43 plan that is submitted to the commissioner in the period between the  
44 five-year updates of the long-range facilities plan shall be  
45 considered by the development authority, in consultation with the  
46 commissioner, for incorporation into the Statewide strategic plan.  
47 In making a determination on whether or not to amend the

1 Statewide strategic plan, the development authority shall consider  
2 the cost of the amendment, the impact of the amendment upon the  
3 school development plans for other districts, and other appropriate  
4 factors.

5 (d) Within 10 days following any update to the Statewide  
6 strategic plan, the development authority shall transmit the plan to  
7 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
8 19.1), and to the members of the Senate Education Committee and  
9 the Assembly Education Committee, or any successor committees.

10 (e) The development authority shall not expend any monies  
11 from the SDA District Project Fund, established pursuant to  
12 subsection i. of section 14 of P.L.2000, c.72 (C.18A:7G-14), and  
13 shall not conduct any activities related to the construction of an  
14 SDA district school facilities projects, except for site identification  
15 and investigation activities, until the project is authorized by a  
16 specific appropriation of the Legislature. Any act authorizing one  
17 or more SDA district school facilities projects shall identify the  
18 project to be funded, the maximum final eligible costs permitted for  
19 the project, and the maximum full-time equivalent employees that  
20 the development authority may allocate to the project.

21 (4) In the case of a district other than an SDA district, the  
22 commissioner shall establish a priority process for the financing of  
23 school facilities projects based upon the commissioner's  
24 determination of critical need in accordance with priority project  
25 categories developed by the commissioner. The priority project  
26 categories shall include, but not be limited to, health and safety,  
27 overcrowding in the elementary, middle, and high school grade  
28 levels, spaces necessary to provide in-district programs and services  
29 for current disabled students who are being served in out-of-district  
30 placements or in-district programs and services for the projected  
31 disabled student population, and full-day kindergarten facilities in  
32 the case of school districts required to provide full-day preschool  
33 pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

34 n. The provisions of the "Public School Contracts Law,"  
35 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
36 project constructed by a district but shall not be applicable to  
37 projects constructed by the development authority or a  
38 redevelopment entity pursuant to the provisions of this act.

39 o. In the case of a school facilities project of a district other  
40 than an SDA district, any proceeds of school bonds issued by the  
41 district for the purpose of funding the project which remain unspent  
42 upon completion of the project shall be used by the district to  
43 reduce the outstanding principal amount of the school bonds.

44 p. Upon completion by the development authority of a school  
45 facilities project, if the cost of construction and completion of the  
46 project is less than the total costs, the district shall be entitled to



1 receive a portion of the local share based on a pro rata share of the  
2 difference based on the ratio of the State share to the local share.

3 q. The development authority shall determine the cause of any  
4 costs of construction which exceed the amount originally projected  
5 by the development authority and approved for financing by the  
6 financing authority.

7 r. (Deleted by amendment, P.L.2007, c.137).

8 s. (Deleted by amendment, P.L.2007, c.137).

9 (cf: P.L.2009, c.185, s.1)<sup>1</sup>

10

11 <sup>1</sup>4. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to  
12 read as follows:

13 5. a. The development authority shall undertake and the  
14 financing authority shall finance the school facilities projects of  
15 SDA districts.

16 b. In the case of a district other than an SDA district, State  
17 support for the project shall be determined pursuant to section 9 or  
18 section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as  
19 applicable.

20 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
21 contrary, the procedures for obtaining approval of a school facilities  
22 project shall be as set forth in **[this act]** P.L.2000, c.72 (C.18A:7G-  
23 1 et al.); provided that any district whose school facilities project is  
24 not constructed by the development authority shall also be required  
25 to comply with the provisions of N.J.S.18A:18A-16 and, in the case  
26 of a school facilities project that has estimated total costs over  
27 \$5,000,000, shall be overseen by a non-conflicted construction  
28 management service provider, which holds a current, valid  
29 classification issued by the Division of Property Management and  
30 Construction in the Department of Treasury pursuant to its  
31 classification processes for construction managers, who shall serve  
32 from initial application to the commissioner for approval of the  
33 project through project completion.

34 d. (1) Any district seeking to initiate a school facilities project  
35 shall apply to the commissioner for approval of the project. The  
36 application may include, but not be limited to: a description of the  
37 school facilities project; a schematic drawing of the project or, at  
38 the option of the district, preliminary plans and specifications; a  
39 delineation and description of each of the functional components of  
40 the project; educational specifications detailing the programmatic  
41 needs of each proposed space; the number of unhoused students to  
42 be housed in the project; the area allowances per FTE student as  
43 calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8);  
44 and the estimated cost to complete the project as determined by the  
45 district.

46 (2) (a) In the case of an SDA district school facilities project,  
47 based upon its educational priority ranking and the Statewide

1 strategic plan established pursuant to subsection m. of this section,  
2 the commissioner may authorize the development authority to  
3 undertake preconstruction activities which may include, but need  
4 not be limited to, site identification, investigation, and acquisition,  
5 feasibility studies, land-related design work, design work, site  
6 remediation, demolition, and acquisition of temporary facilities.  
7 Upon receipt of the authorization, the development authority may  
8 initiate the preconstruction activities required to prepare the  
9 application for commissioner approval of the school facilities  
10 project. Site remediation and demolition preconstruction activities  
11 undertaken by the development authority pursuant to this  
12 subparagraph shall be included as part of the project charter of the  
13 SDA district school facilities project, which project charter covers  
14 all other construction activities of the school facilities project.

15 (b) In the case of an SDA district school facilities project, the  
16 project design shall conform to the standards of the model school  
17 design program developed by the development authority pursuant to  
18 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72  
19 (C.18A:7G-4). The development authority may permit an SDA  
20 district school facilities project to include design features that are  
21 considered excess costs provided that the design features do not  
22 exceed the lesser of 10 percent of total estimated project costs or  
23 \$2,000,000.

24 (c) In the case of a district other than an SDA district, the project  
25 design of a school facilities project may conform to the standards of  
26 the model school design program developed by the development  
27 authority pursuant to paragraph (2) of subsection h. of section 4 of  
28 P.L.2000, c.72 (C.18A:7G-4). If the project conforms to the  
29 standards of the model school design program, the district's district  
30 aid percentage shall be increased by 15 percent.

31 e. The commissioner shall review each proposed school  
32 facilities project to determine whether it is consistent with the  
33 district's long-range facilities plan and whether it complies with the  
34 facilities efficiency standards and the area allowances per FTE  
35 student derived from those standards; and in the case of an SDA  
36 district the commissioner shall also review the project's educational  
37 priority ranking and the Statewide strategic plan developed pursuant  
38 to paragraphs (2) and (3) of subsection m. of this section and  
39 whether the project conforms to the standards of the model school  
40 design program; and in the case of a district other than an SDA  
41 district the commissioner shall also review the project's priority  
42 pursuant to paragraph (4) of subsection m. of this section. The  
43 commissioner shall make a decision on a district's application  
44 within 90 days from the date **[he]** the commissioner determines that  
45 the application is fully and accurately completed and that all  
46 information necessary for a decision has been filed by the district,  
47 or from the date of the last revision made by the district. If the

1 commissioner is not able to make a decision within 90 days, [he]  
2 the commissioner shall notify the district in writing explaining the  
3 reason for the delay and indicating the date on which a decision on  
4 the project will be made, provided that the date shall not be later  
5 than 60 days from the expiration of the original 90 days set forth in  
6 this subsection. If the decision is not made by the subsequent date  
7 indicated by the commissioner, then the project shall be deemed  
8 approved and the preliminary eligible costs for new construction  
9 shall be calculated by using the proposed square footage of the  
10 building as the approved area for unhoused students.

11 f. If the commissioner determines that the school facilities  
12 project complies with the facilities efficiency standards and the  
13 district's long-range facilities plan and does not exceed the area  
14 allowance per FTE student derived from those standards, the  
15 commissioner shall calculate the preliminary eligible costs of the  
16 project pursuant to the formulas set forth in section 7 of P.L.2000,  
17 c.72 (C.18A:7G-7); except that (1) in the case of a county special  
18 services school district or a county vocational school district, the  
19 commissioner shall calculate the preliminary eligible costs to equal  
20 the amount determined by the board of school estimate and  
21 approved by the board of chosen freeholders pursuant to section 14  
22 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as  
23 appropriate, and (2) in the case of an SDA district, the  
24 commissioner shall calculate the preliminary eligible costs to equal  
25 the estimated cost as determined by the development authority.

26 g. If the commissioner determines that the school facilities  
27 project is inconsistent with the facilities efficiency standards or  
28 exceeds the area allowances per FTE student derived from those  
29 standards, the commissioner shall notify the district.

30 (1) The commissioner shall approve area allowances in excess  
31 of the area allowances per FTE student derived from the facilities  
32 efficiency standards if the board of education or State district  
33 superintendent, as appropriate, demonstrates that school facilities  
34 needs related to required programs cannot be addressed within the  
35 facilities efficiency standards and that all other proposed spaces are  
36 consistent with those standards. The commissioner shall approve  
37 area allowances in excess of the area allowances per FTE student  
38 derived from the facilities efficiency standards if the additional area  
39 allowances are necessary to accommodate centralized facilities to  
40 be shared among two or more school buildings within the district  
41 and the centralized facilities represent a more cost effective  
42 alternative.

43 (2) The commissioner may waive a facilities efficiency standard  
44 if the board of education or State district superintendent, as  
45 appropriate, demonstrates to the commissioner's satisfaction that the  
46 waiver will not adversely affect the educational adequacy of the  
47 school facility, including the ability to deliver the programs and

1 services necessary to enable all students to achieve the core  
2 curriculum content standards.

3 (3) To house the district's central administration, a district may  
4 request an adjustment to the approved areas for unhoused students  
5 of 2.17 square feet for each FTE student in the projected total  
6 district school enrollment if the proposed administrative offices will  
7 be housed in a school facility and the district demonstrates either  
8 that the existing central administrative offices are obsolete or that it  
9 is more practical to convert those offices to instructional space. To  
10 the extent that existing administrative space will continue to be used  
11 for administrative purposes, the space shall be included in the  
12 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

13 If the commissioner approves excess facilities efficiency  
14 standards or additional area allowances pursuant to paragraph (1),  
15 (2), or (3) of this subsection, the commissioner shall calculate the  
16 preliminary eligible costs based upon the additional area allowances  
17 or excess facilities efficiency standards pursuant to the formulas set  
18 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that  
19 the commissioner does not approve the excess facilities efficiency  
20 standards or additional area allowances, the district may either:  
21 modify its submission so that the school facilities project meets the  
22 facilities efficiency standards; or pay for the excess costs.

23 (4) The commissioner shall approve spaces in excess of, or  
24 inconsistent with, the facilities efficiency standards, hereinafter  
25 referred to as nonconforming spaces, upon a determination by the  
26 district that the spaces are necessary to comply with State or federal  
27 law concerning individuals with disabilities, including that the  
28 spaces are necessary to provide in-district programs and services for  
29 current disabled pupils who are being served in out-of-district  
30 placements or in-district programs and services for the projected  
31 disabled pupil population. A district may apply for additional State  
32 aid for nonconforming spaces that will permit pupils with  
33 disabilities to be educated to the greatest extent possible in the same  
34 buildings or classes with their nondisabled peers. The  
35 nonconforming spaces may: (a) allow for the return of pupils with  
36 disabilities from private facilities; (b) permit the retention of pupils  
37 with disabilities who would otherwise be placed in private facilities;  
38 (c) provide space for regional programs in a host school building  
39 that houses both disabled and nondisabled pupils; and (d) provide  
40 space for the coordination of regional programs by a county special  
41 services school district, educational services commission, jointure  
42 commission, or other agency authorized by law to provide regional  
43 educational services in a school building that houses both disabled  
44 and nondisabled pupils. A district's State support ratio shall be  
45 adjusted to equal the lesser of the sum of its district aid percentage  
46 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or

1 **[100%]** 100 percent for any nonconforming spaces approved by the  
2 commissioner pursuant to this paragraph.

3 h. Upon approval of a school facilities project and  
4 determination of the preliminary eligible costs:

5 (1) In the case of a district other than an SDA district, the  
6 commissioner shall notify the district whether the school facilities  
7 project is approved and, if so approved, the preliminary eligible  
8 costs and the excess costs, if any. Following the determination of  
9 preliminary eligible costs and the notification of project approval,  
10 the district may appeal to the commissioner for an increase in those  
11 costs if the detailed plans and specifications completed by a design  
12 professional for the school facilities project indicate that the cost of  
13 constructing that portion of the project which is consistent with the  
14 facilities efficiency standards and does not exceed the area  
15 allowances per FTE student exceeds the preliminary eligible costs  
16 as determined by the commissioner for the project by **[10%]** 10  
17 percent or more. The district shall file its appeal within 30 days of  
18 the preparation of the plans and specifications. If the district  
19 chooses not to file an appeal, then the final eligible costs shall equal  
20 the preliminary eligible costs.

21 The appeal shall outline the reasons why the preliminary eligible  
22 costs calculated for the project are inadequate and estimate the  
23 amount of the adjustment which needs to be made to the  
24 preliminary eligible costs. The commissioner shall forward the  
25 appeal information to the development authority for its review and  
26 recommendation. If the additional costs are the result of factors  
27 that are within the control of the district or are the result of design  
28 factors that are not required to meet the facilities efficiency  
29 standards, the development authority shall recommend to the  
30 commissioner that the preliminary eligible costs be accepted as the  
31 final eligible costs. If the development authority determines the  
32 additional costs are not within the control of the district or are the  
33 result of design factors required to meet the facilities efficiency  
34 standards, the development authority shall recommend to the  
35 commissioner a final eligible cost based on its experience for  
36 districts with similar characteristics, provided that, notwithstanding  
37 anything to the contrary, the commissioner shall not approve an  
38 adjustment to the preliminary eligible costs which exceeds **[10%]**  
39 10 percent of the preliminary eligible costs. The commissioner  
40 shall make a determination on the appeal within 30 days of its  
41 receipt. If the commissioner does not approve an adjustment to the  
42 school facilities project's preliminary eligible costs, the  
43 commissioner shall issue his findings in writing on the reasons for  
44 the denial and on why the preliminary eligible costs as originally  
45 calculated are sufficient.

46 (2) In the case of an SDA district, the commissioner shall  
47 promptly prepare and submit to the development authority a

1 preliminary project report which shall consist, at a minimum, of the  
2 following information: a complete description of the school  
3 facilities project; the actual location of the project; the total square  
4 footage of the project together with a breakdown of total square  
5 footage by functional component; the preliminary eligible costs of  
6 the project; the project's priority ranking determined pursuant to  
7 subsection m. of this section; any other factors to be considered by  
8 the development authority in undertaking the project; and the name  
9 and address of the person from the district to contact in regard to  
10 the project.

11 i. Upon receipt by the development authority of the  
12 preliminary project report, the development authority, upon  
13 consultation with the district, shall prepare detailed plans and  
14 specifications and schedules which contain the development  
15 authority's estimated cost and schedule to complete the school  
16 facilities project. The development authority shall transmit to the  
17 commissioner its recommendations in regard to the project which  
18 shall, at a minimum, contain the detailed plans and specifications;  
19 whether the school facilities project can be completed within the  
20 preliminary eligible costs; and any other factors which the  
21 development authority determines should be considered by the  
22 commissioner.

23 (1) In the event that the development authority determines that  
24 the school facilities project can be completed within the preliminary  
25 eligible costs: the final eligible costs shall be deemed to equal the  
26 preliminary eligible costs; the commissioner shall be deemed to  
27 have given final approval to the project; and the preliminary project  
28 report shall be deemed to be the final project report delivered to the  
29 development authority pursuant to subsection j. of this section.

30 (2) In the event that the development authority determines that  
31 the school facilities project cannot be completed within the  
32 preliminary eligible costs, prior to the submission of its  
33 recommendations to the commissioner, the development authority  
34 shall, in consultation with the district and the commissioner,  
35 determine whether changes can be made in the project which will  
36 result in a reduction in costs while at the same time meeting the  
37 facilities efficiency standards approved by the commissioner.

38 (a) If the development authority determines that changes in the  
39 school facilities project are possible so that the project can be  
40 accomplished within the scope of the preliminary eligible costs  
41 while still meeting the facilities efficiency standards, the  
42 development authority shall so advise the commissioner, whereupon  
43 the commissioner shall: calculate the final eligible costs to equal the  
44 preliminary eligible costs; give final approval to the project with the  
45 changes noted; and issue a final project report to the development  
46 authority pursuant to subsection j. of this section.

1 (b) If the development authority determines that it is not  
2 possible to make changes in the school facilities project so that it  
3 can be completed within the preliminary eligible costs either  
4 because the additional costs are the result of factors outside the  
5 control of the district or the additional costs are required to meet the  
6 facilities efficiency standards, the development authority shall  
7 recommend to the commissioner that the preliminary eligible costs  
8 be increased accordingly, whereupon the commissioner shall:  
9 calculate the final eligible costs to equal the sum of the preliminary  
10 eligible costs plus the increase recommended by the development  
11 authority; give final approval to the project; and issue a final project  
12 report to the development authority pursuant to subsection j. of this  
13 section.

14 (c) If the additional costs are the result of factors that are within  
15 the control of the district or are the result of design factors that are  
16 not required to meet the facilities efficiency standards or approved  
17 pursuant to paragraph (1) of subsection g. of this section, the  
18 development authority shall recommend to the commissioner that  
19 the preliminary eligible costs be accepted, whereupon the  
20 commissioner shall: calculate the final eligible costs to equal the  
21 preliminary eligible costs and specify the excess costs which are to  
22 be borne by the district; give final approval to the school facilities  
23 project; and issue a final project report to the development authority  
24 pursuant to subsection j. of this section; provided that the  
25 commissioner may approve final eligible costs which are in excess  
26 of the preliminary eligible costs if, in his judgment, the action is  
27 necessary to meet the educational needs of the district.

28 (d) For a school facilities project undertaken by the  
29 development authority, the development authority shall be  
30 responsible for any costs of construction, but only from the  
31 proceeds of bonds issued by the financing authority pursuant to  
32 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
33 235 et al.), which exceed the amount originally projected by the  
34 development authority and approved for financing by the  
35 development authority, provided that the excess is the result of an  
36 underestimate of labor or materials costs by the development  
37 authority. After receipt by the development authority of the final  
38 project report, the district shall be responsible only for the costs  
39 associated with changes, if any, made at the request of the district to  
40 the scope of the school facilities project.

41 j. The development authority shall not commence the  
42 construction of a school facilities project unless the commissioner  
43 transmits to the development authority a final project report and the  
44 district complies with the approval requirements for the local share,  
45 if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11).  
46 The final project report shall contain all of the information  
47 contained in the preliminary project report and, in addition, shall

1 contain: the final eligible costs; the excess costs, if any; the total  
2 costs which equals the final eligible costs plus excess costs, if any;  
3 the State share; and the local share.

4 k. For the SDA districts, the State share shall be ~~【100%】~~ 100  
5 percent of the final eligible costs. Except as otherwise provided  
6 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other  
7 districts, the State share shall be an amount equal to the district aid  
8 percentage; except that the State share shall not be less than ~~【40%】~~  
9 40 percent of the final eligible costs.

10 If any district which is included in district factor group A or B,  
11 other than an SDA district, is having difficulty financing the local  
12 share of a school facilities project, the district may apply to the  
13 commissioner to receive ~~【100%】~~ 100 percent State support for the  
14 project and the commissioner may request the approval of the  
15 Legislature to increase the State share of the project to ~~【100%】~~ 100  
16 percent.

17 l. The local share for school facilities projects constructed by  
18 the authority or a redevelopment entity shall equal the final eligible  
19 costs plus any excess costs less the State share.

20 m. (1) Within 90 days of the effective date of P.L.2007, c.137  
21 (C.52:18A-235 et al.), the commissioner shall develop an  
22 educational facilities needs assessment for each SDA district. The  
23 assessment shall be updated periodically by the commissioner in  
24 accordance with the schedule the commissioner deems appropriate  
25 for the district; except that each assessment shall at a minimum be  
26 updated within five years of the development of the district's most  
27 recent prior educational facilities needs assessment. The  
28 assessment shall be transmitted to the development authority to be  
29 used to initiate the planning activities required prior to the  
30 establishment of the educational priority ranking of school facilities  
31 projects pursuant to paragraph (2) of this subsection.

32 (2) Following the approval of an SDA district's long-range  
33 facilities plan or of an amendment to that plan, but prior to  
34 authorization of preconstruction activities for a school facilities  
35 project included in the plan or amendment, the commissioner shall  
36 establish, in consultation with the SDA district, an educational  
37 priority ranking of all school facilities projects in the SDA district  
38 based upon the commissioner's determination of critical need in  
39 accordance with priority project categories developed by the  
40 commissioner. The priority project categories shall include, but not  
41 be limited to, health and safety, overcrowding in the early  
42 childhood, elementary, middle, and high school grade levels, spaces  
43 necessary to provide in-district programs and services for current  
44 disabled students who are being served in out-of-district placements  
45 or in-district programs and services for the projected disabled  
46 student population, rehabilitation, and educational adequacy.



1 (3) (a) Upon the commissioner's determination of the  
2 educational priority ranking of school facilities projects in SDA  
3 districts pursuant to paragraph (2) of this subsection, the  
4 development authority, in consultation with the commissioner, the  
5 SDA districts, and the governing bodies of the municipalities in  
6 which the SDA districts are situate, shall establish a Statewide  
7 strategic plan to be used in the sequencing of SDA district school  
8 facilities projects based upon the projects' educational priority  
9 rankings and issues which impact the development authority's  
10 ability to complete the projects including, but not limited to, the  
11 construction schedule and other appropriate factors. The  
12 development authority shall revise the Statewide strategic plan and  
13 the sequencing of SDA district school facilities projects in  
14 accordance with that plan no less than once every five years, except  
15 that the plan shall be updated within 120 days of the effective date  
16 of P.L. , c. (C. ) (pending before the Legislature as this  
17 bill). In addition to any other information that the development  
18 authority may deem appropriate, the Statewide strategic plan shall  
19 include the following information for each project:

20 (i) a description of the project, which shall indicate whether the  
21 project will be new construction or renovation and whether the  
22 project will require the acquisition of land;

23 (ii) the total estimated project costs; and

24 (iii) the number of full-time equivalent staff needed to support  
25 the project.

26 (b) In developing the Statewide strategic plan, the development  
27 authority shall prioritize:

28 (i) new construction projects;

29 (ii) projects located on land owned by the school district or other  
30 public entities; and

31 (iii) projects needed to replace school buildings that have been in  
32 use for 50 or more years.

33 (c) Any amendment to an SDA district's long-range facilities  
34 plan that is submitted to the commissioner in the period between the  
35 five-year updates of the long-range facilities plan shall be  
36 considered by the development authority, in consultation with the  
37 commissioner, for incorporation into the Statewide strategic plan.  
38 In making a determination on whether or not to amend the  
39 Statewide strategic plan, the development authority shall consider  
40 the cost of the amendment, the impact of the amendment upon the  
41 school development plans for other districts, and other appropriate  
42 factors.

43 (d) Within 10 days following any update to the Statewide  
44 strategic plan, the development authority shall transmit the plan to  
45 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
46 19.1), and to the members of the Senate Education Committee and  
47 the Assembly Education Committee, or any successor committees.

1 (4) In the case of a district other than an SDA district, the  
2 commissioner shall establish a priority process for the financing of  
3 school facilities projects based upon the commissioner's  
4 determination of critical need in accordance with priority project  
5 categories developed by the commissioner. The priority project  
6 categories shall include, but not be limited to, health and safety,  
7 overcrowding in the elementary, middle, and high school grade  
8 levels, spaces necessary to provide in-district programs and services  
9 for current disabled students who are being served in out-of-district  
10 placements or in-district programs and services for the projected  
11 disabled student population, and full-day kindergarten facilities in  
12 the case of school districts required to provide full-day preschool  
13 pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

14 n. The provisions of the "Public School Contracts Law,"  
15 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
16 project constructed by a district but shall not be applicable to  
17 projects constructed by the development authority or a  
18 redevelopment entity pursuant to the provisions of this act.

19 o. In the case of a school facilities project of a district other  
20 than an SDA district, any proceeds of school bonds issued by the  
21 district for the purpose of funding the project which remain unspent  
22 upon completion of the project shall be used by the district to  
23 reduce the outstanding principal amount of the school bonds.

24 p. Upon completion by the development authority of a school  
25 facilities project, if the cost of construction and completion of the  
26 project is less than the total costs, the district shall be entitled to  
27 receive a portion of the local share based on a pro rata share of the  
28 difference based on the ratio of the State share to the local share.

29 q. The development authority shall determine the cause of any  
30 costs of construction which exceed the amount originally projected  
31 by the development authority and approved for financing by the  
32 financing authority.

33 r. (Deleted by amendment, P.L.2007, c.137).

34 s. (Deleted by amendment, P.L.2007, c.137).<sup>1</sup>

35 (cf: P.L.2009, c.185, s.1)

36

37 <sup>1</sup>[4.] 5.<sup>1</sup> (New section) a. The State share of a school facilities  
38 project undertaken by a charter school or renaissance school project  
39 located in an SDA district shall be 100 percent of the final eligible  
40 costs as determined pursuant to subsection c. of this section.  
41 Notwithstanding the provisions of section 5 of P.L.2000, c.72  
42 (C.18A:7G-5) or of any other section of law, rule, or regulation to  
43 the contrary, a charter school or renaissance school project located  
44 in an SDA district seeking to initiate a school facilities project, and  
45 that is seeking the State share of the school facilities project, shall  
46 apply to the development authority for approval of the project. In  
47 the case of a charter school or renaissance school project

1 established after the effective date of P.L. , c. (C. )  
2 (pending before the Legislature as this bill), the development  
3 authority shall not approve a school facilities project until after the  
4 charter school's first renewal under section 17 of P.L.1995, c.426  
5 (C.18A:36A-17) or after the renaissance school project's first  
6 renewal under section 10 of P.L.2011, c.176 (C.18A:36C-10).

7 b. (1) The development authority <sup>1</sup>, in consultation with the  
8 Department of Education,<sup>1</sup> shall annually review the applications  
9 for school facilities projects submitted pursuant to subsection a. of  
10 this section and, upon such review, create a Statewide charter  
11 school and renaissance school project facilities strategic plan to be  
12 used in the sequencing of school facilities projects of charter  
13 schools and renaissance school projects in SDA districts. The  
14 Statewide charter school and renaissance school project facilities  
15 strategic plan shall include a Statewide educational priority ranking  
16 of the school facilities projects based upon the development  
17 authority's determination of critical need, the criteria and  
18 methodology of which shall be established by the development  
19 authority pursuant to regulations promulgated by the development  
20 authority <sup>1</sup>**["pursuant to"]** under<sup>1</sup> subsection g. of this section. At a  
21 minimum, the criteria and methodology established by the  
22 development authority for the determination of critical need shall  
23 prioritize <sup>1</sup>, in order<sup>1</sup>:

24 (a) <sup>1</sup>maintenance of existing school buildings;

25 (b)<sup>1</sup> new construction projects; and

26 <sup>1</sup>**[(b)] (c)**<sup>1</sup> major renovation and rehabilitation projects that seek  
27 to expand the capacity of a charter school or renaissance school  
28 project facility used for education purposes.

29 (2) In the event that a school facilities project for which a charter  
30 school or renaissance school project is seeking State support  
31 pursuant to this section is requested for a leased facility, the  
32 applicant charter school or renaissance school project shall submit  
33 the lease agreement or lease agreement addendum that stipulates  
34 that the expiration of the term of the lease is no less than 10 years  
35 from the effective date of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill) and subject to an additional five year  
37 renewal term at the option of the charter school or renaissance  
38 school project.

39 c. If the school facilities project of a charter school or  
40 renaissance school project located in an SDA district is approved  
41 pursuant to this section, the development authority, in consultation  
42 with the charter school or renaissance school project, shall  
43 determine the final eligible costs of the approved school facilities  
44 project, which final eligible costs shall be the reasonable estimated  
45 costs of providing a school facility under the school facilities  
46 project proposal that is structurally adequate and safe and that is  
47 capable of providing an educational program which enables

1 students enrolled in the charter school or renaissance school project  
2 to meet the core curriculum content standards. <sup>1</sup>【The development  
3 authority, however, shall not expend any monies from the Charter  
4 School and Renaissance School Project Construction and  
5 Maintenance Fund, established pursuant to subsection i. of section  
6 14 of P.L.2000, c.72 (C.18A:7G-14), and the charter school or  
7 renaissance school project shall not conduct any activities related to  
8 the construction of an approved school facilities project under this  
9 section, except for site identification and investigation activities,  
10 until the project is authorized by a specific appropriation of the  
11 Legislature. Any act authorizing one or more school facilities  
12 projects approved under this section shall identify the project to be  
13 funded and the maximum final eligible costs permitted for the  
14 project.】<sup>1</sup>

15 d. Following the <sup>1</sup>【authorization by the Legislature】  
16 determination of final eligible costs<sup>1</sup> of a school facilities project  
17 pursuant to subsection c. of this section, the development authority  
18 shall authorize the charter school or renaissance school project to  
19 undertake the school facilities project. <sup>1</sup>【Nothing in this section  
20 shall be construed as requiring the development authority to  
21 undertake any school facilities projects approved pursuant to this  
22 section.】 Notwithstanding the provisions of section 7 of P.L.2011,  
23 c.176 (C.18A:36C-7) or any other law, rule, or regulation to the  
24 contrary, a charter school or renaissance school project authorized  
25 to undertake a school facilities project pursuant to this section shall  
26 be subject to public bidding requirements, as provided under the  
27 "Public School Contracts Law," N.J.S.18A:18A-1 et seq.  
28 Notwithstanding the provisions of section 7 of P.L.2011, c.176  
29 (C.18A:36C-7) or any other law, rule, or regulation to the contrary,  
30 the development authority may undertake a school facilities project  
31 on behalf of the charter school or renaissance school project, at the  
32 request of the charter school or renaissance school project.  
33 Notwithstanding the provisions of section 10 of P.L.1995, c.426  
34 (C.18A:36A-10) or any other law, rule, or regulation to the  
35 contrary, any school facilities project of a charter school or  
36 renaissance school project that is undertaken by the development  
37 authority shall adhere to all public school facility regulations.<sup>1</sup>

38 e. The development authority shall require, as a condition of  
39 providing the State share of funds for a school facilities project  
40 approved pursuant to this section that includes school facilities  
41 owned by the charter school or renaissance school project, that,  
42 notwithstanding the provisions of section 7 of P.L.2013, c.149  
43 (C.18A:36C-16) or of any other law, rule, or regulation to the  
44 contrary, the fee simple title of the facility shall revert to the State,  
45 except that the board of education of the district in which the  
46 charter school or renaissance school project is located shall have the  
47 right of first refusal of the school facilities project prior to the

1 reversion to the State. The provisions of this subsection shall apply  
2 in the following instances:

3 (1) upon the revocation or surrendering of a charter school's  
4 charter, the non-renewal of a charter school's charter or of a  
5 renaissance school project, or the closure of a charter school or  
6 renaissance school project. In the case of the revocation,  
7 surrendering, or non-renewal of a charter school's charter or the  
8 closure of a charter school, the fee simple title shall revert to the  
9 State during and as part of the comprehensive closure plan  
10 implemented by the charter school's board of trustees pursuant to  
11 section 17 of P.L.1995, c.426 (C.18A:36A-17) and regulations  
12 promulgated thereto; or

13 (2) in the event that the school facilities project is no longer  
14 being utilized for the purposes for which it was intended under the  
15 application approved pursuant to this section.

16 f. No charter school or renaissance school project that is  
17 operated by a for-profit management company shall be eligible to  
18 apply to the development authority for the State share of a school  
19 facilities project pursuant to this section.

20 g. The authority shall promulgate, pursuant to the  
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 seq.), such rules and regulations as may be necessary to implement  
23 the provisions of this section, which rules and regulations shall  
24 establish at a minimum:

25 (1) the process for review and approval of school facilities  
26 projects undertaken by charter schools or renaissance school  
27 projects;

28 (2) <sup>1</sup>within 180 days following the date of enactment of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill,<sup>1</sup> the  
30 specific criteria and methodology that the development authority  
31 shall implement in creating an educational priority ranking under  
32 the Statewide charter school and renaissance school project  
33 facilities strategic plan pursuant to subsection b. of this section;

34 (3) the process for the determination of final eligible costs for  
35 which a charter school or renaissance school project would receive  
36 State support pursuant to this section; and

37 (4) the process for the reversion to the State of a school facilities  
38 project pursuant to subsection e. of this section.

39

40 <sup>1</sup>**[5.] 6.**<sup>1</sup> (New section) a. Notwithstanding the provisions of  
41 P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to  
42 the contrary, the board of education of a district other than an SDA  
43 district may enter into an agreement with a county improvement  
44 authority <sup>1</sup>**[or a municipal redevelopment agency]**<sup>1</sup> to construct a  
45 school facilities project and to issue its bonds to finance the local  
46 share of a project that is to be financed under section 15 of  
47 P.L.2000, c.72 (18A:7G-15), or to finance the total costs of a

1 project that is not to be financed under section 15 of P.L.2000, c.72  
2 (C.18A:7G-15). The bonds of a county improvement authority <sup>1</sup>or  
3 municipal redevelopment agency<sup>1</sup> issued to finance the total costs  
4 of a school facilities project that is not to be financed under section  
5 15 of P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt  
6 service aid in accordance with the formula established under section  
7 9 of P.L.2000, c.72 (C.18A:7G-9).

8 b. A district other than an SDA district may lease its lands or  
9 facilities to the county improvement authority <sup>1</sup>or municipal  
10 redevelopment agency<sup>1</sup>, which may construct the school facilities  
11 project <sup>1</sup>through a design build contract<sup>1</sup>. Whenever a school  
12 facilities project is constructed by a county improvement authority  
13 <sup>1</sup>or municipal redevelopment agency through a design-build  
14 contract: (1) the county improvement authority or municipal  
15 redevelopment agency shall follow the procedures established by  
16 the rules and regulations of the New Jersey Schools Development  
17 Authority for the procurement of design-build contracts; (2) the  
18 county improvement authority or municipal redevelopment agency  
19 shall follow the design requirements and materials and system  
20 standards established by the development authority; (3) the  
21 provisions of the “Public School Contracts Law,” (N.J.S.18A:18A-1  
22 et seq.), and the “Local Public Contracts Law,” P.L.1971, c.198  
23 (C.40A:11-1 et seq.), shall not apply; and (4) a district other than an  
24 SDA district shall comply with the procedures for obtaining  
25 approval of the project under P.L.2000, c.72 (C.18A:7G-1 et al.),  
26 but shall not be required to comply with the provisions of  
27 N.J.S.18A:18A-16] pursuant to the provisions of this section, the  
28 improvement authority shall follow the applicable public bidding  
29 procedures or requirements under the “Public School Contracts  
30 Law,” N.J.S.18A:18A-1 et seq., section 2 of P.L.2018, c.90  
31 (C.18A:18A-60), or sections 34 through 41 of P.L.2021, c.71  
32 (C.18A:18A-61 through C.18A:18A-68)<sup>1</sup>.

33 c. The county improvement authority <sup>1</sup>or municipal  
34 redevelopment agency<sup>1</sup> shall lease the school facilities project to  
35 the county, which shall then lease it for nominal consideration to  
36 the district for as long as the county improvement authority <sup>1</sup>or  
37 municipal redevelopment agency<sup>1</sup> bonds or refunding bonds are  
38 outstanding. Nothing in this section shall be construed to authorize  
39 a county to require the district to bear any portion of the cost of the  
40 debt service on the county improvement authority <sup>1</sup>or municipal  
41 redevelopment agency<sup>1</sup> bonds issued to fund the school facilities  
42 project or any refunding bonds.

43 d. The county lease payments made to the county improvement  
44 authority <sup>1</sup>or municipal redevelopment agency<sup>1</sup> pursuant to  
45 subsection c. of this section shall not be subject to any cap on  
46 appropriations or on spending or to any tax levy cap. The county

1 lease payments shall be sufficient to pay debt service on the county  
 2 improvement authority <sup>1</sup>【or municipal redevelopment agency】<sup>1</sup>  
 3 bonds issued to fund the school facilities project or any refunding  
 4 bonds, that remains after the application of any State debt service  
 5 aid paid on those bonds pursuant to section 9 of P.L.2000, c.72  
 6 (C.18A:7G-9). The county lease payments shall be payable over  
 7 the life of the bonds.

8 e. When the bonds issued by a county improvement authority  
 9 <sup>1</sup>【or municipal redevelopment authority】<sup>1</sup> are no longer  
 10 outstanding, the leases and liens of the county and the county  
 11 improvement authority <sup>1</sup>【or municipal redevelopment agency】<sup>1</sup>  
 12 shall expire and the school facilities project shall be solely vested in  
 13 the school district. The school district shall be responsible for the  
 14 operation, maintenance, and improvement of the school facility  
 15 upon the completion of the school facilities project.

16

17 <sup>1</sup>【6. (New section) a. Notwithstanding any provision of law to  
 18 the contrary, when the development authority undertakes a school  
 19 facilities project on behalf of a district, and the project will be  
 20 constructed on a brownfield site, the development authority shall  
 21 not be responsible for any remediation costs associated with the  
 22 brownfield site.

23 b. The development authority shall not commence the  
 24 construction of the school facilities project until all remediation of  
 25 the brownfield site has been completed, which remediation costs  
 26 shall be supported by the local share of the project or any other  
 27 funding provided by the State or federal government to address the  
 28 remediation of brownfield sites.

29 c. As used in this section, the terms “brownfield site,”  
 30 “remediation,” “remediation costs” shall have the same meanings as  
 31 defined in section 10 of P.L.2020, c.156 (C.34:1B-278).】<sup>1</sup>

32

33 7. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to  
 34 read as follows:

35 9. a. State debt service aid for capital investment in school  
 36 facilities for a district other than an SDA district which elects not to  
 37 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-  
 38 15), shall be distributed upon a determination of preliminary  
 39 eligible costs by the commissioner, according to the following  
 40 formula:

41 Aid is the sum of A for each issuance of school bonds issued for  
 42 a school facilities project approved by the commissioner after the  
 43 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

44 where

45  $A = B \times AC/P \times DAP \times M$ , with  $AC/P = 1$

46 whenever  $AC/P$  would otherwise yield a number greater than one,

47 and where:

1 B is the district's debt service for the individual issuance for the  
2 fiscal year;

3 AC is the preliminary eligible costs determined pursuant to  
4 section 7 of P.L.2000, c.72 (C.18A:7G-7);

5 P is the principal of the individual issuance plus any other  
6 funding sources approved for the school facilities project;

7 DAP is the district's district aid percentage as defined pursuant to  
8 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not  
9 be less than **40%** 40 percent, except that if the project's design  
10 conforms to 'a] the standards of the' model school design  
11 'program' established by the development authority pursuant to  
12 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72  
13 (C.18A:7G-4), the DAP shall be increased by 15 percent; and

14 M is a factor representing the degree to which a district has  
15 fulfilled maintenance requirements for a school facilities project  
16 determined pursuant to subsection b. of this section.

17 For county special services school districts, DAP shall be that of  
18 the county vocational school district in the same county.

19 Notwithstanding the provisions of this subsection to the contrary,  
20 DAP for a county vocational school district school facilities project  
21 that is approved by the commissioner following the effective date of  
22 P.L.2009, c.185 shall equal the greater of the district's district aid  
23 percentage as defined pursuant to section 3 of P.L.2000, c.72  
24 (C.18A:7G-3) or the percentage of the students in the county  
25 vocational school district's resident enrollment who reside in SDA  
26 districts; except that DAP shall not be less than **40%** 40 percent  
27 or greater than **90%** 90 percent.

28 b. The maintenance factor (M) shall be 1.0 except when one of  
29 the following conditions applies, in which case the maintenance  
30 factor shall be as specified:

31 (1) Effective ten years from the date of the enactment of  
32 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid  
33 for reconstruction, remodeling, alteration, modernization,  
34 renovation or repair, or for an addition to a school facility, shall be  
35 zero for all school facilities projects for which the district fails to  
36 demonstrate over the ten years preceding issuance a net investment  
37 in maintenance of the related school facility of at least **2%** two  
38 percent of the replacement cost of the school facility, determined  
39 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-  
40 7) using the area cost allowance of the year ten years preceding the  
41 year in which the school bonds are issued.

42 (2) For new construction, additions, and school facilities aided  
43 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)  
44 supported by financing issued for projects approved by the  
45 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-  
46 1 et al.), beginning in the fourth year after occupancy of the school  
47 facility, the maintenance factor shall be reduced according to the



1 following schedule for all school facilities projects for which the  
 2 district fails to demonstrate in the prior fiscal year an investment in  
 3 maintenance of the related school facility of at least two-tenths of  
 4 **【1%】** one percent of the replacement cost of the school facility,  
 5 determined pursuant to subsection b. of section 7 of P.L.2000, c.72  
 6 (C.18A:7G-7).

7 Maintenance Percentage	Maintenance Factor (M)
8 .199% - .151%	75%
9 .150% - .100%	50%
10 Less than .100%	Zero

11 (3) Within one year of the enactment of P.L.2000, c.72  
 12 (C.18A:7G-1 et al.), the commissioner shall promulgate rules  
 13 requiring districts to develop a long-range maintenance plan and  
 14 specifying the expenditures that qualify as an appropriate  
 15 investment in maintenance for the purposes of this subsection.

16 c. Any district which obtained approval from the commissioner  
 17 since September 1, 1998 and prior to the effective date of P.L.2000,  
 18 c.72 (C.18A:7G-1 et al.) of the educational specifications for a  
 19 school facilities project or obtained approval from the Department  
 20 of Community Affairs or the appropriately licensed municipal code  
 21 official since September 1, 1998 of the final construction plans and  
 22 specifications, and the district has issued debt, may elect to have the  
 23 final eligible costs of the project determined pursuant to section 5 of  
 24 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under  
 25 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

26 Any district which received approval from the commissioner for  
 27 a school facilities project at any time prior to the effective date of  
 28 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other  
 29 than short term notes, may submit an application pursuant to section  
 30 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of  
 31 the project determined pursuant to that section and to have the New  
 32 Jersey Economic Development Authority construct the project; or,  
 33 at its discretion, the district may choose to receive debt service aid  
 34 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-  
 35 10) or to receive a grant under section 15 of P.L.2000, c.72  
 36 (C.18A:7G-15).

37 For the purposes of this subsection, the "issuance of debt" shall  
 38 include lease purchase agreements in excess of five years.

39 d. For school bonds issued for a school facilities project after  
 40 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to  
 41 the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State  
 42 debt service aid shall be calculated in accordance with the  
 43 provisions of this section as the same read before the effective date  
 44 of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

45 (cf: P.L.2009, c.185, s.2)

1 8. (New section) a. Notwithstanding any provision of law to  
2 the contrary, when the board <sup>1</sup>~~of~~ <sup>1</sup>~~of~~ education of a district  
3 determines that it is <sup>1</sup>~~not financing a school facilities project under~~  
4 section 15 of P.L.2000, c.72 (C.18A:7G-15) and that it is<sup>1</sup> necessary  
5 to sell bonds to raise money for <sup>1</sup>~~the total costs of~~<sup>1</sup> a school  
6 facilities project, the board of education may issue such bonds as  
7 are necessary to fund the project without the approval of the voters  
8 of the district, provided that before issuing the bonds:

9 (1) the board of education has entered into a written contract  
10 with one or more municipalities, wherein the municipality shall  
11 annually remit to the board of education not less than 60 percent of  
12 the payments in lieu of taxes received by the municipality from one  
13 or more designated properties, and the board of education shall  
14 pledge all remittances to the <sup>1</sup>~~full~~<sup>1</sup> repayment of the bonds; and

15 (2) the bond issuance and contract has been approved by the  
16 commissioner pursuant to subsection b. of this section.

17 b. (1) If a board of education elects to issue bonds pursuant to  
18 this section, the board of education shall apply to the commissioner  
19 for approval of the bond issuance. In addition to any other  
20 information that the commissioner may deem appropriate, the  
21 application shall include: a description of the school facilities  
22 project; a certification of the amount to raised by the bonds; a  
23 description of the anticipated annual debt service costs, including  
24 the amounts to be supported by municipal remittances; and a copy  
25 of the contract.

26 (2) Within 30 days of receiving the application, the  
27 commissioner shall approve, conditionally approve, or reject the  
28 application. If the application is conditionally approved, the  
29 commissioner shall state, in writing, the revisions that shall be made  
30 to the contract in order for the application to be approved. If the  
31 commissioner does not approve, conditionally approve, or reject the  
32 application within 30 days of the date of receipt, the commissioner  
33 shall be deemed to have approved the application.

34 c. <sup>1</sup>~~Any debt service on a bond issued by a school district~~  
35 pursuant to this section that is not supported by municipal  
36 remittances authorized under this section and is paid by the board of  
37 education shall be eligible for State debt service aid in accordance  
38 with the formula established under section 9 of P.L.2000, c.72  
39 (C.18A:7G-9).

40 <sup>1</sup>~~d.~~<sup>1</sup> The commissioner, in consultation with the Local Finance  
41 Board, shall promulgate, pursuant to "Administrative Procedure  
42 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and  
43 regulations as may be necessary to implement the provisions of this  
44 section. At a minimum, the rules and regulations shall establish  
45 requirements and procedures concerning the process by which  
46 municipalities and districts may enter into contracts pursuant to this  
47 section.

1       <sup>1</sup>9. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to  
2 read as follows:

3       13. a. The financing authority shall be responsible for the  
4 issuance of bonds pursuant to section 14 of P.L.2000, c.72  
5 (C.18A:7G-14) and the development authority shall be responsible  
6 for the planning, design, construction management, acquisition,  
7 construction, and completion of school facilities projects. In the  
8 case of a capital maintenance project, the development authority  
9 may, in its discretion, authorize an SDA district to undertake the  
10 design, acquisition, construction and all other appropriate actions  
11 necessary to complete the capital maintenance project and shall  
12 enter into a grant agreement with the district for the payment of the  
13 State share. The development authority may also authorize an SDA  
14 district to undertake the design, acquisition, construction and all  
15 other appropriate actions necessary to complete any other school  
16 facilities project in accordance with the procedures established  
17 pursuant to subsection e. of this section.

18       b. The financing authority shall undertake the financing of  
19 school facilities projects pursuant to the provisions of this act. The  
20 financing authority shall finance the State share of a school  
21 facilities project and may, in its discretion and upon consultation  
22 with the district, finance the local share of the project. In the event  
23 that the financing authority finances only the State share of a  
24 project, the development authority shall not commence acquisition  
25 or construction of the project until the development authority  
26 receives the local share from the district.

27       c. In order to implement the arrangements established for  
28 school facilities projects which are to be constructed by the  
29 development authority and financed pursuant to this section, a  
30 district shall enter into an agreement with the development  
31 authority and the commissioner containing the terms and conditions  
32 determined by the parties to be necessary to effectuate the project.

33       d. Upon completion by the development authority of a school  
34 facilities project, the district shall enter into an agreement with the  
35 development authority to provide for the maintenance of the project  
36 by the district. In the event that the school facilities project is  
37 constructed by a district, upon the completion of the project, the  
38 district shall submit to the commissioner a plan to provide for the  
39 maintenance of the project by the district. Any agreement or plan  
40 shall contain, in addition to any other terms and provisions, a  
41 requirement for the establishment of a maintenance reserve fund  
42 consistent with the appropriation and withdrawal requirements for  
43 capital reserve accounts established pursuant to section 57 of  
44 P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be  
45 as set forth in regulations adopted by the commissioner pursuant to  
46 section 26 of P.L.2000, c.72 (C.18A:7G-26).

1 e. (1) Within one year of the effective date of P.L.2007, c.137  
2 (C.52:18A-235 et al.), the commissioner, in consultation with the  
3 development authority, shall adopt pursuant to the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
5 regulations by which the commissioner shall determine whether an  
6 SDA district is eligible to be considered by the development  
7 authority to manage a school facilities project or projects. In  
8 making the determination, the commissioner shall consider the  
9 district's fiscal integrity and operations, the district's performance in  
10 each of the five key components of school district effectiveness  
11 under the New Jersey Quality Single Accountability Continuum  
12 (NJQSAC) in accordance with section 10 of P.L.1975, c.212  
13 (C.18A:7A-10), and other relevant factors.

14 (2) Within one year of the effective date of P.L.2007, c.137  
15 (C.52:18A-235 et al.), the development authority, in consultation  
16 with the commissioner, shall adopt pursuant to the "Administrative  
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
18 regulations by which the development authority shall determine the  
19 capacity of an SDA district, deemed eligible by the commissioner  
20 pursuant to paragraph (1) of this subsection, to manage a school  
21 facilities project or projects identified by the development authority.  
22 In making the determination, the development authority shall  
23 consider the experience of the SDA district, the size, complexity,  
24 and cost of the project, time constraints, and other relevant factors.

25 (3) The development authority, in consultation with the  
26 commissioner, shall develop and implement training programs,  
27 seminars, or symposia to provide technical assistance to SDA  
28 districts deemed to lack the capacity to manage a school facility  
29 project or projects; except that nothing herein shall be construed to  
30 require the development authority or the commissioner to authorize  
31 an SDA district to hire additional staff in order to achieve capacity.

32 (4) If the development authority determines to delegate a school  
33 facilities project to an SDA district in accordance with paragraph  
34 (2) of this subsection, the development authority, the commissioner,  
35 and the district shall enter into a grant agreement.

36 (5) If the development authority determines to delegate a school  
37 facilities project to an SDA district in accordance with paragraph  
38 (2) of this subsection, the development authority shall confirm the  
39 prequalification status of all contractors and subcontractors  
40 performing demolition and construction activities under the school  
41 facilities project, including confirmation that it has received the  
42 certification required pursuant to section 16 of P.L. \_\_\_\_\_,  
43 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), prior to  
44 the commencement of demolition or any construction on the school  
45 facilities project.

46 (6) If the development authority determines to delegate a school  
47 facilities project to an SDA district in accordance with paragraph

1 (2) of this subsection, the SDA district shall be deemed to be in  
2 noncompliance with the grant agreement entered into pursuant to  
3 paragraph (4) of this subsection if the district enters into a contract  
4 with a contractor, subcontractor, or consultant which is debarred,  
5 suspended, or disqualified from State or development authority  
6 contracting or to a firm which has not been prequalified by the  
7 development authority. If the district enters into a contract with a  
8 debarred, suspended, or disqualified contractor, subcontractor, or  
9 consultant, then the grant agreement shall be rendered null and  
10 void.<sup>1</sup>

11 (cf: P.L.2007, c.260, s.44)

12

13 <sup>1</sup>**[9.] 10.**<sup>1</sup> Section 14 of P.L.2000, c.72 (C.18A:7G-14) is  
14 amended to read as follows:

15 14. Notwithstanding any other provisions of law to the contrary:

16 a. The financing authority shall have the power, pursuant to the  
17 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
18 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to  
19 issue bonds and refunding bonds, incur indebtedness and borrow  
20 money secured, in whole or in part, by moneys received pursuant to  
21 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-  
22 18 and C.18A:7G-19) for the purposes of: financing all or a portion  
23 of the costs of school facilities projects and any costs related to the  
24 issuance thereof, including, but not limited to, the administrative,  
25 insurance, operating and other expenses of the financing authority  
26 to undertake the financing, and the development authority to  
27 undertake the planning, design, and construction of school facilities  
28 projects; lending moneys to local units to pay the costs of all or a  
29 portion of school facilities projects and any costs related to the  
30 issuance thereof; funding the grants to be made pursuant to section  
31 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition  
32 of school facilities projects to permit the refinancing of debt by the  
33 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).  
34 Notwithstanding the provisions of this section to the contrary,  
35 bonds and refunding bonds, or any indebtedness or other borrowed  
36 moneys, secured, in whole or in part, by moneys received pursuant  
37 to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17,  
38 C.18A:7G-18 and C.18A:7G-19) under this section after the  
39 effective date of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill) shall not be issued for the purposes of  
41 financing costs related to the issuance of the bonds, indebtedness, or  
42 other borrowed moneys including, but not limited to, the  
43 administrative, insurance, operating and other expenses of the  
44 financing authority to undertake the financing and the development  
45 authority to undertake the planning, design, and construction of  
46 school facilities projects. Bonds, indebtedness, or other borrowed  
47 moneys issued pursuant to this section shall also not be issued for

1 the purposes of financing any costs related to the issuance of  
2 moneys lent to local units to pay the costs of all or a portion of  
3 school facilities projects. The administrative, insurance, operating,  
4 and other expenses of the financing authority related to undertaking  
5 the financing of school facilities projects pursuant to this section  
6 shall be supported by State appropriations. The administrative,  
7 insurance, operating, and other expenses of the development  
8 authority to undertake the planning, design, and construction of  
9 school facilities projects shall be funded by State appropriations  
10 pursuant to paragraph (2) of subsection o. of section 4 of P.L.2007,  
11 c.137, (C.52:18A-238). Bonds and refunding bonds, or any  
12 indebtedness or other borrowed moneys issued pursuant to this  
13 section after the effective date of P.L. , c. (C. ) (pending  
14 before the Legislature as this bill) shall only be issued for the  
15 purposes of: financing all or a portion of the costs of school  
16 facilities projects; lending moneys to local units to pay the costs of  
17 all or a portion of school facilities projects; funding the grants to be  
18 made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and  
19 financing the acquisition of school facilities projects to permit the  
20 refinancing of debt by the district pursuant to section 16 of  
21 P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of  
22 the bonds, notes or other obligations issued by the financing  
23 authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et  
24 al.) shall not exceed: \$100,000,000 for the State share of costs for  
25 county vocational school district school facilities projects;  
26 \$6,000,000,000 for the State share of costs for Abbott district  
27 school facilities projects; and \$2,500,000,000 for the State share of  
28 costs for school facilities projects in all other districts. The  
29 aggregate principal amount of the bonds, notes or other obligations  
30 issued by the financing authority as authorized pursuant to  
31 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:  
32 \$2,900,000,000 for the State share of costs of SDA district school  
33 facilities projects; and \$1,000,000,000 for the State share of costs  
34 for school facilities projects in all other districts, \$50,000,000 of  
35 which shall be allocated for the State share of costs for county  
36 vocational school district school facilities projects. This limitation  
37 shall not include any bonds, notes or other obligations issued for  
38 refunding purposes.

39 The financing authority may establish reserve funds to further  
40 secure bonds and refunding bonds issued pursuant to this section  
41 and may issue bonds to pay for the administrative, insurance and  
42 operating costs of the financing authority and the development  
43 authority in carrying out the provisions of this act. Notwithstanding  
44 the provisions of this section to the contrary, the proceeds of bonds  
45 issued pursuant to this section after the effective date of P.L. ,  
46 c. (C. ) (pending before the Legislature as this bill) shall not  
47 pay for any costs related to the issuance of the bonds, including the

1 administrative, insurance and operating costs of the financing  
2 authority and the development authority in carrying out the  
3 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). Such costs of the  
4 financing authority shall be supported by State appropriations. Such  
5 costs of the development authority shall be funded by State  
6 appropriations pursuant to paragraph (2) of subsection o. of section  
7 4 of P.L.2007, c.137, (C.52:18A-238). In addition to its bonds and  
8 refunding bonds, the financing authority shall have the power to  
9 issue subordinated indebtedness, which shall be subordinate in lien  
10 to the lien of any or all of its bonds or refunding bonds as the  
11 financing authority may determine.

12 b. The financing authority shall issue the bonds or refunding  
13 bonds in such manner as it shall determine in accordance with the  
14 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
15 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);  
16 provided that notwithstanding any other law to the contrary, no  
17 resolution adopted by the financing authority authorizing the  
18 issuance of bonds or refunding bonds pursuant to this section shall  
19 be adopted or otherwise made effective without the approval in  
20 writing of the State Treasurer; and refunding bonds issued to refund  
21 bonds issued pursuant to this section shall be issued on such terms  
22 and conditions as may be determined by the financing authority and  
23 the State Treasurer. The financing authority may, in any resolution  
24 authorizing the issuance of bonds or refunding bonds issued  
25 pursuant to this section, pledge the contract with the State Treasurer  
26 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-  
27 18), or any part thereof, or may pledge all or any part of the  
28 repayments of loans made to local units pursuant to section 19 of  
29 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the  
30 bonds or refunding bonds, and covenant as to the use and  
31 disposition of money available to the financing authority for  
32 payment of the bonds and refunding bonds. All costs associated  
33 with the issuance of bonds and refunding bonds by the financing  
34 authority for the purposes set forth in this act may be paid by the  
35 financing authority from amounts it receives from the proceeds of  
36 the bonds or refunding bonds, and from amounts it receives  
37 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-  
38 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but  
39 shall not be limited to, any costs relating to the issuance of the  
40 bonds or refunding bonds, administrative costs of the financing  
41 authority attributable to the making and administering of loans and  
42 grants to fund school facilities projects, and costs attributable to the  
43 agreements entered into pursuant to subsection d. of this section.  
44 Notwithstanding the provisions of this section to the contrary, the  
45 proceeds of bonds and refunding bonds that are issued pursuant to  
46 this section after the effective date of P.L. , c. (C. )  
47 (pending before the Legislature as this bill) shall not pay for the

1 administrative costs of the financing authority associated with the  
2 issuance of the bonds and refunding bonds, including, but not  
3 limited to, administrative costs of the financing authority  
4 attributable to the making and administering of loans and grants to  
5 fund school facilities projects, and costs attributable to the  
6 agreements entered into pursuant to subsection d. of this section.  
7 Such costs of the financing authority shall be supported by State  
8 appropriations.

9 c. Each issue of bonds or refunding bonds of the financing  
10 authority shall be special obligations of the financing authority  
11 payable out of particular revenues, receipts or funds, subject only to  
12 any agreements with the holders of bonds or refunding bonds, and  
13 may be secured by other sources of revenue, including, but not  
14 limited to, one or more of the following:

15 (1) Pledge of the revenues and other receipts to be derived from  
16 the payment of local unit obligations and any other payment made  
17 to the financing authority pursuant to agreements with any local  
18 unit, or a pledge or assignment of any local unit obligations, and the  
19 rights and interest of the financing authority therein;

20 (2) Pledge of rentals, receipts and other revenues to be derived  
21 from leases or other contractual arrangements with any person or  
22 entity, public or private, including one or more local units, or a  
23 pledge or assignment of those leases or other contractual  
24 arrangements and the rights and interests of the financing authority  
25 therein;

26 (3) Pledge of all moneys, funds, accounts, securities and other  
27 funds, including the proceeds of the bonds;

28 (4) Pledge of the receipts to be derived from payments of State  
29 aid to the financing authority pursuant to section 21 of P.L.2000,  
30 c.72 (C.18A:7G-21);

31 (5) Pledge of the contract or contracts with the State Treasurer  
32 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

33 (6) Pledge of any sums remitted to the local unit by donation  
34 from any person or entity, public or private, subject to the approval  
35 of the State Treasurer;

36 (7) A mortgage on all or any part of the property, real or  
37 personal, comprising a school facilities project then owned or  
38 thereafter to be acquired, or a pledge or assignment of mortgages  
39 made to the financing authority by any person or entity, public or  
40 private, including one or more local units and rights and interests of  
41 the financing authority therein; and

42 (8) The receipt of any grants, reimbursements or other payments  
43 from the federal government.

44 d. The resolution authorizing the issuance of bonds or  
45 refunding bonds pursuant to this section may also provide for the  
46 financing authority to enter into any revolving credit agreement,  
47 agreement establishing a line of credit or letter of credit,



1 reimbursement agreement, interest rate exchange agreement,  
2 currency exchange agreement, interest rate floor or cap, options,  
3 puts or calls to hedge payment, currency, rate, spread or similar  
4 exposure or similar agreements, float agreements, forward  
5 agreements, insurance contracts, surety bonds, commitments to  
6 purchase or sell bonds, purchase or sale agreements, or  
7 commitments or other contracts or agreements and other security  
8 agreements approved by the financing authority in connection with  
9 the issuance of the bonds or refunding bonds pursuant to this  
10 section. In addition, the financing authority may, in anticipation of  
11 the issuance of the bonds or the receipt of appropriations, grants,  
12 reimbursements or other funds, including, without limitation, grants  
13 from the federal government for school facilities projects, issue  
14 notes, the principal of or interest on which, or both, shall be payable  
15 out of the proceeds of notes, bonds or other obligations of the  
16 financing authority or appropriations, grants, reimbursements or  
17 other funds or revenues of the financing authority.

18 e. The financing authority is authorized to engage, subject to  
19 the approval of the State Treasurer and in such manner as the State  
20 Treasurer shall determine, the services of financial advisors and  
21 experts, placement agents, underwriters, appraisers, and other  
22 advisors, consultants and agents as may be necessary to effectuate  
23 the financing of school facilities projects.

24 f. Bonds and refunding bonds issued by the financing authority  
25 pursuant to this section shall be special and limited obligations of  
26 the financing authority payable from, and secured by, funds and  
27 moneys determined by the financing authority in accordance with  
28 this section. Notwithstanding any other provision of law or  
29 agreement to the contrary, any bonds and refunding bonds issued by  
30 the financing authority pursuant to this section shall not be secured  
31 by the same property as bonds and refunding bonds issued by the  
32 financing authority to finance projects other than school facilities  
33 projects. Neither the members of the financing authority nor any  
34 other person executing the bonds or refunding bonds shall be  
35 personally liable with respect to payment of interest and principal  
36 on these bonds or refunding bonds. Bonds or refunding bonds  
37 issued pursuant to this section shall not be a debt or liability of the  
38 State or any agency or instrumentality thereof, except as otherwise  
39 provided by this subsection, either legal, moral or otherwise, and  
40 nothing contained in this act shall be construed to authorize the  
41 financing authority to incur any indebtedness on behalf of or in any  
42 way to obligate the State or any political subdivision thereof, and  
43 all bonds and refunding bonds issued by the financing authority  
44 shall contain a statement to that effect on their face.

45 g. The State hereby pledges and covenants with the holders of  
46 any bonds or refunding bonds issued pursuant to this act that it will  
47 not limit or alter the rights or powers vested in the financing

1 authority by this act, nor limit or alter the rights or powers of the  
2 State Treasurer in any manner which would jeopardize the interest  
3 of the holders or any trustee of the holders, or inhibit or prevent  
4 performance or fulfillment by the financing authority or the State  
5 Treasurer with respect to the terms of any agreement made with the  
6 holders of the bonds or refunding bonds or agreements made  
7 pursuant to subsection d. of this section; except that the failure of  
8 the Legislature to appropriate moneys for any purpose of this act  
9 shall not be deemed a violation of this section.

10 h. The financing authority and the development authority may  
11 charge to and collect from local units, districts, the State and any  
12 other person, any fees and charges in connection with the financing  
13 authority's or development authority's actions undertaken with  
14 respect to school facilities projects, including, but not limited to,  
15 fees and charges for the financing authority's administrative,  
16 organization, insurance, operating and other expenses incident to  
17 the financing of school facilities projects, and the development  
18 authority's administrative, organization, insurance, operating,  
19 planning, design, construction management, acquisition,  
20 construction, completion and placing into service and maintenance  
21 of school facilities projects. Notwithstanding any provision of this  
22 act to the contrary, no SDA district shall be responsible for the  
23 payment of any fees and charges related to the development  
24 authority's operating expenses.

25 i. Upon the issuance by the financing authority of bonds  
26 pursuant to this section, other than refunding bonds, the net  
27 proceeds of the bonds shall be transferred to the development  
28 authority. The development authority shall establish five funds in  
29 which the net proceeds of the bonds issued pursuant to this section,  
30 and any State appropriations for school facilities projects, shall be  
31 deposited. The five funds shall be as follows:

32 (1) the SDA District Project Fund, in which shall be deposited  
33 any funds made available for the State share of costs for SDA  
34 district school facilities projects, which funds shall include, but not  
35 be limited to, the proceeds of bonds issued pursuant to subsection a.  
36 of this section for the State share of costs for SDA district school  
37 facilities projects, the proceeds of any general obligation or other  
38 bonds that may be authorized for SDA district school facilities  
39 projects, and any State appropriations for SDA district school  
40 facilities projects; <sup>1</sup> [the development authority shall not expend any  
41 monies from the SDA District Project Fund and shall not conduct  
42 any activities related to the construction of an SDA district school  
43 facilities projects, except for site identification and investigation,  
44 until the project is authorized by a specific appropriation of the  
45 Legislature in accordance with subparagraph (e) of paragraph (3) of  
46 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5);<sup>1</sup>

1       (2) the Regular Operating District Construction and Maintenance  
 2 Grants Fund, in which shall be deposited any funds made available  
 3 for the State share of costs for school facilities projects in districts  
 4 other than SDA districts, which funds shall include, but not be  
 5 limited to, the proceeds of bonds issued pursuant to subsection a. of  
 6 this section for the State share of costs for school facilities projects  
 7 in districts other than SDA districts, the proceeds of any general  
 8 obligation or other bonds that may be authorized for school  
 9 facilities projects in districts other than SDA districts, and any State  
 10 appropriations for school facilities projects in districts other than  
 11 SDA districts;

12       (3) <sup>1</sup>the Vocational-Technical School District Project Fund, in  
 13 which shall be deposited any funds made available for the State  
 14 share of costs for school facilities projects in county vocational  
 15 school districts, which funds shall include, but not be limited to, the  
 16 proceeds of bonds issued pursuant to subsection a. of this section  
 17 for the State share of costs for county vocational school district  
 18 school facilities projects, the proceeds of any general obligation or  
 19 other bonds that may be authorized for county vocational school  
 20 district school facilities projects, and any State appropriations for  
 21 school facilities projects in county vocational school districts;

22       (4) <sup>1</sup>(a) the SDA District Emergent Project Fund, in which  
 23 shall be deposited any funds made available for emergent projects  
 24 in SDA districts <sup>1</sup>under the “Emergent Condition Remediation  
 25 Program” established pursuant to section 21 of P.L. \_\_\_\_\_,  
 26 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) <sup>1</sup>, which  
 27 funds shall include, but not be limited to, the proceeds of bonds  
 28 issued pursuant to subsection a. of this section for the State share of  
 29 costs for SDA district emergent projects, the proceeds of any  
 30 general obligation or other bonds that may be authorized for SDA  
 31 district emergent projects, and any State appropriations for SDA  
 32 district emergent projects;

33       (b) as used in this paragraph, “emergent project” means a school  
 34 facilities project or other capital project eligible for State funding  
 35 that would alleviate a condition that, if not corrected on an  
 36 expedited basis, would render a building or facility so potentially  
 37 injurious or hazardous that it causes an imminent peril to the health  
 38 and safety of students or staff; and

39       <sup>1</sup>**[(5)]** (4) <sup>1</sup>the Charter School and Renaissance School Project  
 40 Construction and Maintenance Fund in which shall be deposited any  
 41 funds made available for school facilities projects of charter schools  
 42 or renaissance school projects located in SDA districts approved  
 43 pursuant to section <sup>1</sup>**[4]** <sup>1</sup>5<sup>1</sup> of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before  
 44 the Legislature as this bill), which funds shall include, but not be  
 45 limited to, the proceeds of any general obligation bonds that may be  
 46 authorized for SDA district charter school or renaissance school  
 47 project school facilities projects or any State appropriations for

1 SDA district charter school or renaissance school project school  
2 facilities projects.

3 <sup>1</sup>j. In the event that the annual appropriations act provides for  
4 direct funding for school facilities projects, or in the event that a  
5 separate act appropriates direct funding of school facilities projects  
6 from the “New Jersey Debt Defeasance and Prevention Fund”  
7 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2),  
8 no less than 50 percent of the direct funding shall be appropriated to  
9 the SDA District Project Fund and the SDA District Emergent  
10 Project Fund. The remaining funds for school facilities projects  
11 shall be utilized in a manner to be determined by the development  
12 authority.<sup>1</sup>

13 (cf: P.L.2008, c.39, s.4)

14

15 <sup>1</sup>**【10.】 11.**<sup>1</sup> Section 15 of P.L.2000, c.72 (C.18A:7G-15) is  
16 amended to read as follows:

17 15. a. In the case of a district other than an SDA district, for any  
18 project approved by the commissioner after the effective date of  
19 **【this act】** P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect  
20 to receive a one-time grant for the State share of the project in  
21 accordance with the provisions of subsection b. of this section  
22 rather than annual debt service aid under section 9 of P.L.2000, c.72  
23 (C.18A:7G-9). The State share payable to the district shall equal  
24 the product of the project's final eligible costs and the district aid  
25 percentage or **【40%】** 40 percent, whichever is greater, except that if  
26 the project's design conforms to <sup>1</sup>**【a】** the standards of the<sup>1</sup> model  
27 school design <sup>1</sup>program<sup>1</sup> established by the development authority  
28 pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000,  
29 c.72 (C.18A:7G-4), the district aid percentage shall be increased by  
30 15 percent above the amount calculated under section 3 of  
31 P.L.2000, c.72 (C.18A:7G-3).

32 b. The commissioner shall establish a process for the annual  
33 allocation of grant funding. Under that process, the commissioner  
34 shall annually notify districts of the date on which the  
35 commissioner shall begin to receive applications for grant funding.  
36 A district shall have 90 days from that date to submit an application  
37 to the commissioner. The commissioner shall make a decision on a  
38 district's application within 90 days of the submission of all such  
39 applications and shall allocate the grant funding in accordance with  
40 the priority process established pursuant to paragraph (4) of  
41 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

42 c. The development authority shall provide grant funding for  
43 the State's share of the final eligible costs of a school facilities  
44 project pursuant to an agreement between the district and the  
45 development authority which shall, in addition to other terms and  
46 conditions, set forth the terms of disbursement of the State share.

1 The funding of the State share shall not commence until the district  
2 secures financing for the local share.

3 (cf: P.L.2008, c.39, s.5)

4

5 <sup>1</sup>~~11.1~~ 12.<sup>1</sup> Section 23 of P.L.2000, <sup>1</sup>~~c.23~~ c.72<sup>1</sup> (C.18A:7G-  
6 23) is amended to read as follows:

7 23. a. Not less than the prevailing wage rate determined by the  
8 Commissioner of Labor and Workforce Development pursuant to  
9 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be  
10 paid to workers employed in the performance of construction  
11 contracts in connection with any school facilities project that is  
12 undertaken by the development authority, a redevelopment entity,  
13 ~~or~~ <sup>1</sup>~~or~~ a charter school or renaissance school project  
14 <sup>1</sup>, a county improvement authority, or by a private entity when the  
15 private entity is undertaking construction on a school facilities  
16 project under a public-private partnership<sup>1</sup> and any contractor who  
17 violates the provisions of this subsection shall be prohibited from  
18 subsequently bidding on any State or district contract.

19 b. Registration fees collected pursuant to P.L.1999, c.238  
20 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and  
21 administrative costs of the Division of Workplace Standards, Office  
22 of Wage and Hour Compliance, Public Contracts section and  
23 Registration section within the Department of Labor and Workforce  
24 Development.

25 (cf: P.L.2007, c.137, s.34)

26

27 <sup>1</sup>13. (New section) There is hereby created within the  
28 development authority an Office of Contracting Accountability. The  
29 office shall, in consultation with the Department of Labor and  
30 Workforce Development, ensure the compliance in the payment of  
31 no less than the prevailing wage rate determined by the  
32 Commissioner of Labor and Workforce Development pursuant to  
33 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), as well as  
34 with all other applicable State wage and hour laws and regulations,  
35 by contractors selected for a school facilities project undertaken by  
36 the development authority or by an SDA district that has been  
37 delegated management of the project by the development authority.  
38 The office shall collect and review all certified payrolls for work on  
39 school facilities projects undertaken by the development authority  
40 or by an SDA district that has been delegated management of the  
41 project by the development authority, and shall conduct at least one  
42 worksite inspection per project on a quarterly basis. Violations of  
43 State wage and hour law requirements shall be reflected in the  
44 mandatory uniform performance evaluation of contractors, as  
45 required pursuant to section 62 of P.L.2000, c.72 (C.18A:7G-36).  
46 Violations of wage and hour requirements shall constitute grounds  
47 for the development authority to revoke prequalification from a

1 contractor, which prequalification is granted pursuant to the process  
2 established by the development authority under section 59 of  
3 P.L.2000, c.72 (C.18A:7G-33).<sup>1</sup>  
4

5 <sup>1</sup>**[12.] 14.**<sup>1</sup> Section 57 of P.L.2000, c.72 (C.18A:7G-31) is  
6 amended to read as follows:

7 57. a. Notwithstanding any provision of this act or any other  
8 law or regulation to the contrary, a board of education or a board of  
9 school estimate, as appropriate, may, through the adoption of a  
10 board resolution, establish a capital reserve account. The account  
11 shall be established and held in accordance with GAAP and shall be  
12 subject to annual audit. The funds in the capital reserve account  
13 shall be used to finance the district's long-range facilities plan  
14 required pursuant to subsection a. of section 4 of **[this act]**  
15 P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall  
16 not exceed the total amount of local funds required to implement  
17 the plan.

18 b. A board of education or a board of school estimate, as  
19 appropriate, may appropriate funds in the district's annual budget  
20 for the establishment of the capital reserve account pursuant to  
21 subsection a. of this section or to supplement the funds in the  
22 account as required to meet the needs of the long-range facilities  
23 plan.

24 c. A board of education may, by resolution of the board:  
25 transfer funds from the capital reserve account to the appropriate  
26 line item account for the funding of capital projects as contained in  
27 the district's long-range facilities plan; and transfer funds from the  
28 capital reserve account to the debt service account for the purpose  
29 of offsetting principal and interest payments for bonded projects  
30 which are included in the district's long-range facilities plan.

31 d. A board of education may, by resolution of the board:  
32 transfer funds from the capital reserve account to the appropriate  
33 line item account for the funding of capital projects subject to a  
34 public-private partnership agreement entered into pursuant to  
35 section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds  
36 from the capital reserve account to the debt service account for the  
37 purpose of offsetting principal and interest payments for bonded  
38 projects subject to a public-private partnership agreement entered  
39 into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).

40 (cf: P.L.2004, c.73, s.5)  
41

42 <sup>1</sup>15. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to  
43 read as follows:

44 60. a. The prequalification process shall include a requirement  
45 that the contractor proposing to submit bids on a school facilities  
46 project submit a statement under oath on a form designated by the  
47 development authority. The form shall fully describe and establish

1 the financial ability, responsibility, plant and equipment,  
2 organization, ownership, relationships and prior experience of the  
3 prospective bidder and any other pertinent and material facts as may  
4 be deemed necessary by the development authority. The submission  
5 shall include:

6 (1) A certified, audited financial statement or compilation of  
7 financial statements or other documentation of financial status  
8 acceptable to the development authority;

9 (2) Proof of any contractor or trade license required by law for  
10 any trade or specialty area in which the contractor is seeking  
11 prequalification and a statement as to whether any contractor or  
12 trade license has been revoked;

13 (3) A statement as to bonding capacity, which shall be from a  
14 surety authorized to issue bid, performance and payment bonds in  
15 the State of New Jersey in accordance with N.J.S.2A:44-143  
16 through N.J.S.2A:44-147 to the contractor, and shall indicate  
17 aggregate bonding limits;

18 (4) A list of the names and titles of all individuals who own  
19 10% or more of any class of stock in the corporation or are a 10%  
20 or more partner in the firm. If any of the aforementioned  
21 stockholders or partners is itself a corporation, or a partnership, that  
22 entity shall also provide the information specified herein;

23 (5) Disclosure of any judgments, convictions or criminal  
24 indictments for any conduct constituting a crime under local, State  
25 or federal law;

26 (6) Disclosure of any unsatisfied judgments, injunctions or liens  
27 obtained by a governmental agency including, but not limited to,  
28 judgments based on taxes owed and fines and penalties assessed by  
29 any government agency;

30 (7) Disclosure of any determination for violations of federal,  
31 State or local laws, rules or regulations, including health laws,  
32 unemployment insurance or workers' compensation coverage or  
33 claim requirements, the "Employee Retirement Income Security Act  
34 of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
35 environmental laws, safety laws, licensing laws, tax laws and  
36 antitrust laws;

37 (8) Disclosure of any federal, State or local debarments, non-  
38 responsibility findings or denials of prequalification;

39 (9) Disclosure of any bankruptcy filings or proceedings;

40 (10) A statement as to past performance, which shall give an  
41 accurate and complete record of work completed in the past five  
42 years by the contractor giving the names of the projects, type of  
43 work, location, contract price, bid and final contract amount paid  
44 and the names of the owner and of the architect or engineer in  
45 charge for the owner. This statement shall also disclose any labor  
46 problems experienced, any failure to complete a contract on  
47 schedule, any penalties, judgments, orders or liens imposed by

1 reason of any contract undertaken within the five-year period and  
2 whether the contractor has been defaulted for cause on any project  
3 as determined by an unappealed or nonappealable decision. This  
4 statement shall also indicate the status of any litigation pending  
5 against the potential bidder. The contractor shall be required to  
6 attach to this statement all performance evaluations in his  
7 possession for any work performed by the contractor on any public  
8 or private projects;

9 (11) A statement as to organization, which shall demonstrate the  
10 adequacy of such organization to undertake a school facilities  
11 project. This statement shall include the resumes of the  
12 management and professional staff;

13 (12) A statement setting forth the contractor's equipment  
14 inventory and technical resources; and

15 (13) A statement on staffing capabilities, including labor sources,  
16 staffing plans, turnover rates, and any use of registered  
17 apprenticeship programs and journeyman training programs.

18 b. After the receipt of the submission provided for in  
19 subsection a. of this section, the development authority may verify  
20 information provided in the contractor's submission, including  
21 applicable license and certificate requirements, federal or State  
22 debarments and violations of law. The development authority may  
23 also conduct random inquiries or surveys of the contractor's prior  
24 customers.

25 c. Based upon the submission provided for in subsection a. of  
26 this section the development authority shall assign a contractor the  
27 following classification and limits for the purpose of determining  
28 the types of projects for which a contractor is entitled to bid:

29 (1) a trade or work classification; and

30 (2) an aggregate rating limit.

31 To effectuate these requirements of the prequalification process,  
32 the development authority shall develop rules and regulations for  
33 assigning classifications and aggregate limits.

34 d. The classification shall be made and an immediate notice  
35 thereof shall be sent to the contractor by registered or certified mail  
36 or other legally valid methods.

37 e. The development authority shall establish procedures to  
38 permit contractors to challenge a classification made pursuant to  
39 this section.

40 f. The prequalification submission shall include an affidavit  
41 which acknowledges receipt of information regarding the  
42 appropriate federal Bureau of Apprenticeship and Training  
43 apprenticeship laws and regulations as adopted by the State and  
44 information regarding the county apprenticeship coordinators and  
45 the federal Bureau of Apprenticeship and Training.

46 g. The development authority shall maintain a registry of all  
47 contractors prequalified to bid on school facilities projects. The



1 registry shall include the classification of the bidder and aggregate  
2 building limit. The development authority shall maintain an updated  
3 version of the registry available on the Internet website of the  
4 authority.<sup>1</sup>

5 (cf: P.L.2007, c.137, s.39)

6  
7 <sup>1</sup>16. (New section) The development authority shall not  
8 prequalify a contractor to bid on a school facilities project, or grant  
9 the renewal of prequalification, without first seeking certification  
10 from the Commissioner of Labor and Workforce Development or  
11 the Office of the Attorney General in the Department of Law and  
12 Public Safety that the contractor submitting for prequalification is  
13 not the subject of an investigation or proceeding involving  
14 allegations of severe workplace safety, willful or repeated State  
15 wage and hour law violations, or a criminal investigation at the time  
16 of submitting for prequalification. A contractor shall not be  
17 prequalified by the development authority while a governmental  
18 proceeding examining allegations of severe workplace safety or of  
19 willful or repeated State wage and hour law violations is pending,  
20 or, if during the three year period preceding the submission of the  
21 application, the contractor has been found by an official proceeding  
22 to have committed severe workplace safety or willful or repeated  
23 State wage and hour law violations.<sup>1</sup>

24  
25 <sup>1</sup>17. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to  
26 read as follows:

27 61. a. A contractor's prequalification classification shall be  
28 valid for 24 months. A contractor shall be reclassified after the 24-  
29 month period in order to remain eligible to bid on school facilities  
30 projects.

31 b. Any material changes relevant to the prequalification  
32 process shall be reported by the contractor to the development  
33 authority in writing within 10 days. Based on the information  
34 provided, the development authority may change the classification  
35 or revoke prequalification for cause. The development authority  
36 may revoke a contractor's prequalification if the contractor fails to  
37 report material changes relevant to the prequalification process  
38 within 10 days.<sup>1</sup>

39 (cf: P.L.2007, c.137, s.40)

40  
41 <sup>1</sup>18. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to  
42 read as follows:

43 62. a. A mandatory uniform performance evaluation shall be  
44 conducted on all school facilities projects undertaken by the  
45 development authority. The evaluation shall, at a minimum, include  
46 cost, schedule adherence and quality.

1 b. A contractor shall be notified of a performance evaluation.  
2 The contractor shall be afforded an opportunity to respond to an  
3 adverse evaluation. Following the opportunity for the contractor to  
4 respond to an adverse evaluation, the development authority may  
5 revoke a contractor's prequalification to bid on school facilities  
6 projects.

7 c. The contractor performance evaluations shall be utilized in  
8 reviewing bid submissions.<sup>1</sup>

9 (cf: P.L.2007, c.137, s.41)

10

11 <sup>1</sup>19. Section 63 of P.L.2000, c.72 (C.18A:7G-37) is amended to  
12 read as follows:

13 63. a. A prequalified contractor seeking to bid school facilities  
14 projects, and any subcontractors required to be named under  
15 P.L.2000, c.72 (C.18A:7G-1 et al.) shall, as a condition of bidding,  
16 submit a sworn contractor certification regarding qualifications and  
17 credentials.

18 b. In the contractor certification form, a principal owner or  
19 officer of the company shall certify that the firm has the following  
20 qualifications and credentials:

21 (1) A current, valid certificate of registration issued pursuant to  
22 "The Public Works Contractor Registration Act," P.L.1999, c.238  
23 (C.34:11-56.48 et seq.), a copy of which shall be attached to the  
24 certification form, if applicable;

25 (2) A current, valid "Certificate of Authority to perform work in  
26 New Jersey" issued by the Department of the Treasury, a copy of  
27 which shall be attached to the certification form;

28 (3) Any current, valid contractor or trade license required under  
29 applicable New Jersey law for any trade or specialty area in which  
30 the firm seeks to perform work, a copy of which shall be attached to  
31 the certification;

32 (4) During the term of construction of the school facilities  
33 project, the contractor will have in place a suitable quality control  
34 and quality insurance program and an appropriate safety and health  
35 plan; and

36 (5) workers' compensation insurance and liability policies that  
37 sufficiently cover the contractor's workforce based on the number  
38 of workers and craft trades it employs.

39 c. The contractor certification form shall further require that a  
40 principal owner or officer of the company certify that, at the time  
41 that the firm is bidding a project, the amount of its bid proposal and  
42 the value of all of its outstanding incomplete contracts does not  
43 exceed the firm's existing aggregate rating limit.<sup>1</sup>

44 (cf: P.L.2000, c.72, s.63)

45

46 <sup>1</sup>20. (New section) a. The development authority and an SDA  
47 district to which the development authority has delegated

1 management of a school facilities project, as well as any contractor  
2 or consultant retained thereby shall not enter into a contract for  
3 work with any person or firm that has been debarred, suspended, or  
4 disqualified from State, development authority, or federal  
5 government contracting.

6 b. The development authority and any SDA district to which  
7 the development authority has delegated management of a school  
8 facilities project shall insert in all contracts with all contracted  
9 parties, and all contractors and consultants shall insert into all of  
10 their contracts with all subcontractors and subconsultants, a clause  
11 stating that the contracted party, its subcontractors or  
12 subconsultants may be debarred, suspended or disqualified from  
13 contracting or working, or both, on the approved school facilities  
14 project if the contracted party commits any of the acts listed in  
15 N.J.A.C.17:19-4.1 or any other applicable regulation issued by the  
16 development authority.

17 c. The development authority or the SDA district to which the  
18 development authority has delegated management of a school  
19 facilities project shall include in its bid specification for any work  
20 or services on an approved school facilities project that all bidders  
21 submit a sworn statement by the bidder, or an officer or partner of  
22 the bidder, indicating whether the bidder is, at the time of the bid,  
23 included on the State Treasurer's, the development authority's or  
24 the federal government's list of debarred, suspended or disqualified  
25 bidders as a result of action taken by any state or federal agency, as  
26 the case may be. Bid specifications for the approved school  
27 facilities project shall state that the district shall immediately notify  
28 the development authority in writing whenever it appears that a  
29 bidder is on the State Treasurer's, the development authority's, or  
30 the federal government's list. The inclusion of the bidder on any of  
31 the lists shall constitute cause for the immediate termination of any  
32 contract for a school facilities project, and shall result in the  
33 development authority's immediate suspension of the bidder from  
34 contracting or engaging in work or services on a school facilities  
35 project.<sup>1</sup>

36  
37 <sup>1</sup>21. (New section) a. There is hereby created within the  
38 development authority an Emergent Condition Remediation  
39 Program to provide for the financing of emergent projects in SDA  
40 districts. Emergent projects financed under the program shall be  
41 funded by moneys from the SDA District Emergent Project Fund  
42 established pursuant to paragraph (3) of subsection i. of section 14  
43 of P.L.2000, c.72 (C.18A:7G-14).

44 b. Under the Emergent Condition Remediation Program  
45 established pursuant to subsection a. of this section, the  
46 development authority shall create a process whereby contractors  
47 prequalified by the development authority to bid on school facilities

1 projects apply to be a part of a pool of contractors available to  
2 address emergent conditions in SDA districts under a standing  
3 retainer agreement subject to the development authority's project  
4 labor agreement. The prequalified contractors that are part of the  
5 pool of contractors established pursuant to this subsection shall be  
6 available for any emergent project in any SDA district. Nothing in  
7 this subsection shall be construed as requiring the retainer of  
8 prequalified contractors for specific emergent projects.<sup>1</sup>

9  
10 <sup>1</sup>22. (New section) Notwithstanding the provisions of any law,  
11 rule, or regulation to the contrary, an SDA district to which the  
12 development authority has delegated management of a school  
13 facilities project shall not enter into a cooperative pricing system or  
14 agreement for construction services on school facilities projects.<sup>1</sup>

15  
16 <sup>1</sup>23. N.J.S.18A:18A-4 is amended to read as follows:

17 18A:18A-4. a. Every contract for the provision or performance  
18 of any goods or services, the cost of which in the aggregate exceeds  
19 the bid threshold, shall be awarded only by resolution of the board  
20 of education to the lowest responsible bidder after public  
21 advertising for bids and bidding therefor, except as is provided  
22 otherwise in this chapter or specifically by any other law.

23 The board of education may, by resolution approved by a  
24 majority of the board of education and subject to subsections b. and  
25 c. of this section, disqualify a bidder who would otherwise be  
26 determined to be the lowest responsible bidder, if the board of  
27 education finds that:

28 (1) any board **[**or, in the case of a contract for a school facilities  
29 project, the New Jersey Economic Development Authority,**]** of  
30 education has had prior negative experience with the bidder within  
31 the past 10 years, as reported in a contractor evaluation submitted  
32 pursuant to N.J.S. 18A:18A-15 **[**or in a school facilities project  
33 performance evaluation submitted pursuant to regulations of the  
34 Department of the Treasury or section 62 of P.L.2000, c.72  
35 (C.18A:7G-36), as appropriate.**]** ; or

36 (2) in the case of a contract for a school facilities project as  
37 defined in section 3 of P.L.2000, c.72 (C.18A:7G-3), there has been  
38 at least one instance of prior negative experience with the bidder by  
39 any board of education, or by the New Jersey Economic  
40 Development Authority or the New Jersey Schools Development  
41 Authority, or any combination thereof, as reported in a contractor  
42 evaluation submitted pursuant to N.J.S.18A:18A-15, a school  
43 facilities project performance evaluation, or in a mandatory uniform  
44 performance evaluation conducted pursuant to section 62 of  
45 P.L.2000, c.72 (C.18A:7G-36), as appropriate.

46 b. As used in this section, "prior negative experience" means  
47 any of the following:

1 (1) the bidder has been found, through either court adjudication,  
2 arbitration, mediation, or other contractually stipulated alternate  
3 dispute resolution mechanism, to have: failed to provide or perform  
4 goods or services; or failed to complete the contract in a timely  
5 manner; or otherwise performed unsatisfactorily under a prior  
6 contract with a board of education or, in the case of a school  
7 facilities project, with the New Jersey Economic Development  
8 Authority or the Schools Development Authority;

9 (2) the bidder defaulted on a contract, thereby requiring a board  
10 of education or, in the case of a school facilities project, the New  
11 Jersey Economic Development Authority or the Schools  
12 Development Authority, to utilize the services of another contractor  
13 to provide the goods or perform the services or to correct or  
14 complete the contract;

15 (3) the bidder defaulted on a contract, thereby requiring a board  
16 of education or, in the case of a school facilities project, the New  
17 Jersey Economic Development Authority or the Schools  
18 Development Authority, to look to the bidder's surety for  
19 completion of the contract or tender of the costs of completion; **[or]**

20 (4) the bidder is debarred or suspended from contracting with  
21 any of the agencies or departments of the executive branch of the  
22 State of New Jersey at the time of the contract award, whether or  
23 not the action was based on experience with a board of education  
24 or, in the case of a school facilities project, with the New Jersey  
25 Economic Development Authority **[.]** or the Schools Development  
26 Authority;

27 (5) the bidder's prequalification to bid on a school facilities  
28 projects, which prequalification was granted pursuant to the process  
29 established by the development authority under section 59 of  
30 P.L.2000, c.72 (C.18A:7G-33), has been revoked by the New Jersey  
31 Schools Development Authority;

32 (6) the bidder has been suspended from contracting or engaging  
33 in work or services on a school facilities project; or

34 (7) the bidder's prequalification to submit bids on a school  
35 facilities project has been revoked pursuant to subsection b. of  
36 section 61 of P.L.2000, c.72 (C.18A:7G-35) or subsection b. of  
37 section 62 of P.L.2000, c.72 (C.18A:7G-36).

38 c. The following conditions apply if the board of education is  
39 contemplating a disqualification based on prior negative experience:

40 (1) The existence of any of the indicators of prior negative  
41 experience set forth in this section shall not require that a bidder be  
42 disqualified. In each instance, the decision to disqualify shall be  
43 made within the discretion of the board of education and shall be  
44 rendered in the best interests of the board of education.

45 (2) All mitigating factors shall be considered in determining the  
46 seriousness of the prior negative experience and in deciding  
47 whether disqualification is warranted.

1 (3) The bidder shall be furnished by the board of education with  
 2 a written notice (a) stating that a disqualification is being  
 3 considered; (b) setting forth the reason for the disqualification; and  
 4 (c) indicating that the bidder shall be accorded an opportunity for a  
 5 hearing before the board of education if the bidder so requests  
 6 within a stated period of time. At the hearing, the bidder shall show  
 7 good cause why the bidder should not be disqualified by presenting  
 8 documents and testimony. If the board of education determines that  
 9 good cause has not been shown by the bidder, it may vote to find  
 10 the bidder lacking in responsibility and, thus, disqualified.

11 (4) Disqualification shall be for a reasonable, defined period of  
 12 time which shall not exceed five years.

13 (5) A disqualification, other than a disqualification pursuant to  
 14 which a board of education is prohibited by law from entering into a  
 15 contract with a bidder, may be voided or the period thereof may be  
 16 reduced, in the discretion of the board of education, upon the  
 17 submission of a good faith application under oath, supported by  
 18 documentary evidence, setting forth substantial and appropriate  
 19 grounds for the granting of relief, such as reversal of a judgment, or  
 20 actual change of ownership, management or control of the bidder.

21 (6) An opportunity for a hearing need not be offered to a bidder  
 22 whose disqualification is based on its suspension or debarment by  
 23 an agency or department of the executive branch of the State of  
 24 New Jersey. The term of such a disqualification shall be concurrent  
 25 with the term of the suspension or debarment by the State agency or  
 26 department.

27 d. The purchase of text books and materials that exceed the bid  
 28 threshold and are approved by a board of education pursuant to  
 29 N.J.S.18A:34-1 shall not require the further adoption of a resolution  
 30 for purchase.<sup>1</sup>

31 (cf: P.L.2002, c.90, s.1)

32

33 <sup>1</sup>**[13.] 24.**<sup>1</sup> (New section) a. Within 120 days of the effective  
 34 date of P.L. , c. (C. ) (pending before the Legislature as  
 35 this bill), the Commissioner of Education, in consultation with the  
 36 New Jersey Schools Development Authority, shall <sup>1</sup>**[develop**  
 37 **guidance]** , pursuant to the Administrative Procedure Act,”  
 38 P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate regulations<sup>1</sup>  
 39 for school districts concerning the incorporation of construction  
 40 contract provisions that encourage the completion of construction  
 41 projects on schedule. <sup>1</sup>**[The commissioner, in consultation with the**  
 42 **development authority, may update the guidance as the**  
 43 **commissioner deems necessary.]<sup>1</sup>**

44 b. At a minimum, the <sup>1</sup>**[guidance]** regulations<sup>1</sup> shall include  
 45 sample provisions that school districts may include in future  
 46 issuances of construction contracts. In addition to any other

1 considerations that the commissioner may deem appropriate,  
2 <sup>1</sup>**【guidance】 regulations<sup>1</sup>** shall prescribe:

3 (1) industry-leading penalties for the late delivery of projects by  
4 contractors; and

5 (2) incentives for contractors who deliver projects on time and  
6 under budget.

7 <sup>1</sup>**【c. Within five days of developing the guidance, or any revision**  
8 **thereto, the commissioner shall post the guidance on the official**  
9 **Internet website of the department.】<sup>1</sup>**

10

11 <sup>1</sup>**【14.】 25.<sup>1</sup>** Section 2 of P.L.2018, c.90 (C.18A:18A-60) is  
12 amended to read as follows:

13 2. a. As used in this section:

14 "Authority" means the New Jersey Economic Development  
15 Authority established pursuant to section 4 of P.L.1974, c.80  
16 (C.34:1B-4).

17 "Bundling" means the use of a solicitation for multiple projects  
18 in one single contract, through a public-private partnership project  
19 delivery method, the result of which restricts competition.

20 "Project" shall have the same meaning as provided in section 3  
21 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and  
22 shall include any infrastructure or facility used or to be used by the  
23 public or in support of a public purpose or activity.

24 "Public-private partnership agreement" means an agreement  
25 entered into by a school district and a private entity pursuant to this  
26 section for the purpose of permitting a private entity to assume full  
27 financial and administrative responsibility for the development,  
28 construction, reconstruction, repair, alteration, improvement,  
29 extension, operation, and maintenance of a school facilities project  
30 of, or for the benefit of, the school district.

31 "School district" shall have the same meaning as provided in  
32 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local  
33 school district, regional school district, or county special services  
34 school district or county vocational school established and  
35 operating under the provisions of Title 18A of the New Jersey  
36 Statutes that can demonstrate to the satisfaction of the  
37 Commissioner of Education and the Chief Executive Officer of the  
38 Schools Development Authority that a school facility is necessary  
39 due to overcrowding or is in need of replacement. The term "school  
40 district" shall include a charter school established under P.L.1995,  
41 c.426 (C.18A:36A-1 et seq.)

42 b. (1) A school district may enter into a contract with a private  
43 entity, subject to subsection f. of this section, to be referred to as a  
44 public-private partnership agreement, that permits the private entity  
45 to assume full financial and administrative responsibility for a  
46 project of, or for the benefit of, the school district**【**, provided that  
47 the project is financed in whole by the private entity**】**, except that a

1 school district may, by resolution, draw against its capital reserve  
2 account in order to finance a portion of a project for which a school  
3 district and private entity enter into a public-private partnership  
4 agreement pursuant to the provisions of this section.

5 (2) A public-private partnership agreement may include an  
6 agreement under which a school district and a private entity enter  
7 into a lease of a revenue-producing public building, structure, or  
8 facility in exchange for up-front or structured financing by the  
9 private entity for the project. Under the lease agreement, the  
10 private entity shall be responsible for the management, operation,  
11 and maintenance of the building, structure, or facility. The private  
12 entity shall receive some or all, as per the agreement, of the revenue  
13 generated by the building, structure, or facility, and shall operate  
14 the building, structure, or facility in accordance with school district  
15 standards. At the end of the lease term, subsequent revenue  
16 generated by the building, structure, or facility, along with  
17 management, operation, and maintenance responsibility, shall revert  
18 to the school district. A lease agreement entered into pursuant to  
19 this section shall be limited in duration to a term of not more than  
20 30 years. A lease agreement shall be subject to all applicable  
21 provisions of current law governing leases by a school district not  
22 inconsistent with the provisions of this section.

23 (3) Bundling of projects shall be prohibited under this section.

24 c. (1) A private entity that assumes financial and  
25 administrative responsibility for a project pursuant to this section  
26 shall not be subject to, unless otherwise set forth herein, the  
27 procurement and contracting requirements of all statutes applicable  
28 to the school district at which the project is completed, including,  
29 but not limited to, the "Public School Contracts Law,"  
30 N.J.S.18A:18A-1 et seq.

31 (2) For the purposes of facilitating the financing of a project  
32 pursuant to this section, a public entity may become the owner or  
33 lessee of the project or the lessee of the land, or both, may become  
34 the lessee of a building, structure, or facility to which the school  
35 district holds title, may issue indebtedness in accordance with the  
36 public entity's enabling legislation and, notwithstanding any  
37 provision of law to the contrary, shall be empowered to enter into  
38 contracts with a private entity and its affiliates without being  
39 subject to the procurement and contracting requirements of any  
40 statute applicable to the public entity provided that the private  
41 entity has been selected by the school district pursuant to a  
42 solicitation of proposals or qualifications from at least two private  
43 entities. For the purposes of this subsection, a public entity shall  
44 include the New Jersey Economic Development Authority, and any  
45 project undertaken pursuant to this section of which the authority  
46 becomes the owner or lessee, or which is situated on land of which  
47 the authority becomes the lessee, shall be deemed a "project" under



1 "The New Jersey Economic Development Authority Act," P.L.1974,  
2 c.80 (C.34:1B-1 et seq.).

3 (3) Prior to the commencement of work on a project, the private  
4 entity shall establish a construction account and appoint a third-  
5 party financial institution, who shall be prequalified by the State  
6 Treasurer to act as a collateral agent and manage the construction  
7 account. The construction account shall include the funding,  
8 financial instruments, or both, that shall be used to **fully** <sup>1</sup>fully<sup>1</sup>  
9 capitalize and fund the project, and the collateral agent shall  
10 maintain a full accounting of the funds and instruments in the  
11 account. The funds and instruments in the construction account  
12 shall be held in trust for the benefit of the contractor, construction  
13 manager, and design-build team involved in the project. The funds  
14 and instruments in the construction account shall not be the  
15 property of the private entity unless all amounts due to the  
16 construction account beneficiaries are paid in full. The construction  
17 account shall not be designated for more than one project.

18 d. Each worker employed in the construction, rehabilitation, or  
19 building maintenance services of facilities by a private entity that  
20 has entered into a public-private partnership agreement with a  
21 school district pursuant to this section shall be paid not less than the  
22 prevailing wage rate for the worker's craft or trade as determined by  
23 the Commissioner of Labor and Workforce Development pursuant  
24 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379  
25 (C.34:11-56.58 et seq.).

26 e. (1) All building construction projects under a public-private  
27 partnership agreement entered into pursuant to this section shall  
28 contain a project labor agreement. The project labor agreement  
29 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et  
30 seq.), and shall be in a manner that to the greatest extent possible  
31 enhances employment opportunities for individuals residing in the  
32 county of the project's location. The general contractor,  
33 construction manager, design-build team, or subcontractor for a  
34 construction project proposed in accordance with this paragraph  
35 shall be registered pursuant to the provisions of P.L.1999, c.238  
36 (C.34:11-56.48 et seq.), and shall be classified by the Division of  
37 Property Management and Construction, or shall be prequalified by  
38 the Department of Transportation, as appropriate, to perform work  
39 on a public-private partnership project.

40 (2) All projects proposed in accordance with this section shall  
41 be submitted to the State Treasurer, in consultation with the  
42 Department of Education, Schools Development Authority, and the  
43 New Jersey Economic Development Authority for a review and  
44 approval in accordance with subsection f. of this section prior to the  
45 execution of the public-private partnership agreement and, when  
46 practicable, are encouraged to adhere to the Leadership in Energy  
47 and Environmental Design Green Building Rating System as

1 adopted by the United States Green Building Council, the Green  
2 Globes Program adopted by the Green Building Initiative, or a  
3 comparable nationally recognized, accepted, and appropriate  
4 sustainable development rating system.

5 (3) The general contractor, construction manager, or design-  
6 build team shall be required to post a performance bond to ensure  
7 the completion of the project and a payment bond guaranteeing  
8 prompt payment of moneys due in accordance with and conforming  
9 to the requirements of N.J.S.2A:44-143 et seq.

10 (4) Prior to being submitted to the State Treasurer for review  
11 and approval, all projects proposed in accordance with this section  
12 shall be subject to a public hearing, the record of which shall have  
13 been kept open for a period of seven days following the conclusion  
14 of the hearing, after the ranking of proposals takes place pursuant to  
15 paragraph (5) of subsection j. of this section. The school district  
16 shall provide notice of the public hearing no less than 14 days prior  
17 to the date of the hearing. The notice shall prominently state the  
18 purpose and nature of the proposed project, and shall be published  
19 on the official Internet website of the school district and in at least  
20 one or more newspapers with Statewide circulation.

21 (5) Prior to entering into a public -private partnership, the  
22 school district must determine: (i) the benefits to be realized by the  
23 project, (ii) the cost of the project if it is developed by the public  
24 sector supported by comparisons to comparable projects, (iii) the  
25 maximum public contribution that the school district will allow  
26 under the public -private partnership, (iv) a comparison of the  
27 financial and non-financial benefits of the public-private  
28 partnership compared to other options including the public sector  
29 option, (v) a list of risks, liabilities and responsibilities to be  
30 transferred to the private entity and those to be retained by the  
31 school district, and (vi) if the project has a high, medium or low  
32 level of project delivery risk and how the public is protected from  
33 these risks.

34 (6) Prior to entering into a public- private partnership, the  
35 school district at a public hearing shall find that the project is in the  
36 best interest of the public by finding that (i) it will cost less than the  
37 public sector option, or if it costs more there are factors that warrant  
38 the additional expense, (ii) there is a public need for the project and  
39 the project is consistent with existing long-term plans, (iii) there are  
40 specific significant benefits to the project, (iv) there are specific  
41 significant benefits to using the public-private partnership instead  
42 of other options including No-Build, (v) the private development  
43 will result in timely and efficient development and operation, and  
44 (vi) the risks, liabilities and responsibilities transferred to the  
45 private entity provide sufficient benefits to warrant not using other  
46 means of procurement.

1 f. (1) All projects proposed in accordance with this section  
2 shall be submitted to the State Treasurer for review and approval,  
3 which shall be conducted in consultation with the Commissioner of  
4 the Department of Education and the Chief Executive Officer of the  
5 Schools Development Authority. The Commissioner of the  
6 Department of Education shall determine if a project is subject to  
7 voter approval pursuant to N.J.S.18A:24-10. If a project is subject  
8 to voter approval, such approval is required prior to progressing  
9 thru the procurement process. The projects are encouraged, when  
10 practicable, to adhere to the green building manual prepared by the  
11 Commissioner of Community Affairs pursuant to section 1 of  
12 P.L.2007, c.132 (C.52:27D-130.6).

13 (2) All projects proposed in accordance with this section that  
14 have a transportation component or impact the transportation  
15 infrastructure shall be submitted to the Department of  
16 Transportation. The State Treasurer shall consult with the  
17 Department of Transportation in making its final determination.

18 (3) (a) In order for an application to be complete and considered  
19 by the State Treasurer, the application shall include, but not be  
20 limited to: (i) a full description of the proposed public-private  
21 partnership agreement between the school district and the private  
22 developer, including all information obtained by and findings of the  
23 school district pursuant to paragraphs (4) and (5) of subsection (e)  
24 of this section; (ii) a full description of the project, including a  
25 description of any agreement for the lease of a revenue-producing  
26 facility related to the project; (iii) the estimated costs and financial  
27 documentation for the project showing the underlying financial  
28 models and assumptions that determined the estimated costs. The  
29 financial documentation must include at least three different  
30 projected estimated costs showing scenarios in which materially  
31 different economic circumstances are assumed and an explanation  
32 for how the estimated costs were determined based on the three  
33 scenarios; (iv) a timetable for completion of the construction of the  
34 project; (v) an analysis of all available funding options for the  
35 project, including an analysis of the financial viability and  
36 advisability of such project, along with evidence of the public  
37 benefit in advancing the project as a public-private partnership; (vi)  
38 a record of the public hearing held pursuant to paragraph (4) of  
39 subsection e. of this section, which shall have been kept open for a  
40 period of seven days following the conclusion of the hearing; (vii)  
41 any other requirements that the State Treasurer deems appropriate  
42 or necessary. The application shall also include a resolution by the  
43 school district's governing body of its intent to enter into a public-  
44 private partnership agreement pursuant to this section.

45 (b) As part of the estimated costs and financial documentation  
46 for the project, the application shall contain a long-range  
47 maintenance plan and a long-range maintenance bond and shall

1 specify the expenditures that qualify as an appropriate investment in  
2 maintenance. The long-range maintenance plan shall be approved  
3 by the State Treasurer pursuant to regulations promulgated by the  
4 State Treasurer that reflect national building maintenance standards  
5 and other appropriate building maintenance benchmarks.

6 (4) The State Treasurer, in consultation with the authority, the  
7 Commissioner of the Department of Education, and the Chief  
8 Executive Officer of the Schools Development Authority, shall  
9 review all completed applications, and request additional  
10 information as is needed to make a complete assessment of the  
11 project. No public-private partnership agreement shall be executed  
12 until approval has been granted by the State Treasurer. Prior to a  
13 final decision by the State Treasurer on the application, the  
14 authority, the Department of Education, and the Schools  
15 Development Authority shall be afforded the opportunity to provide  
16 comments on the application that they deem appropriate, and the  
17 State Treasurer shall consider any comments submitted by the  
18 authority, the Department of Education, and the Schools  
19 Development Authority with respect to the application. The State  
20 Treasurer will find that: (i) the school district's assumptions  
21 regarding the project's scope, its benefits, its risks and the cost of  
22 the public sector option were fully and reasonably developed (ii) the  
23 design of the project is feasible; (iii) the experience and  
24 qualifications of the private entity; (iv) the financial plan is sound;  
25 (v) the long-range maintenance plan is adequate to protect the  
26 investment; (vi) the project is in the best interest of the public,  
27 using the criteria in paragraph (6) of subsection e. of this section;  
28 (vii) a resolution by the school district's governing body of its intent  
29 to enter into a public-private partnership agreement for the project  
30 has been received; and (viii) the term sheet for any proposed  
31 procurement contains all necessary elements.

32 (5) The State Treasurer, in consultation with the Commissioner  
33 of the Department of Education and Chief Executive Officer of the  
34 Schools Development Authority, may promulgate any rules and  
35 regulations necessary to implement this subsection, including, but  
36 not limited to, provisions for fees to cover administrative costs, and  
37 for the determination of minimum school district standards for the  
38 operation of the project, and for the qualification for professional  
39 services, construction contracting, and other relevant qualifications.

40 g. A project with an expenditure of under \$50 million  
41 developed under a public-private partnership agreement shall  
42 include a requirement that precludes contractors from engaging in  
43 the project if the contractor has contributed to the private entity's  
44 financing of the project in an amount of more than 10% of the  
45 project's financing costs.

46 h. The power of eminent domain shall not be delegated to any  
47 private entity under the provisions of P.L.2018, c.90 (C.40A:11-52

1 et al.); however, a school district may dedicate any property  
2 interest, including improvements, and tangible personal property of  
3 the school district for public use in a qualifying project if the school  
4 district finds that so doing will serve the public purpose of the  
5 project by minimizing the cost of the project to the school district or  
6 reducing the delivery time of a project.

7 i. Any public-private partnership agreement, if appropriate,  
8 shall include provisions affirming that the agreement and any work  
9 performed under the agreement are subject to the provisions of the  
10 "Construction Industry Independent Contractor Act," P.L.2007,  
11 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement  
12 will also include, at a minimum: (i) the term of the agreement, (ii)  
13 the total project cost, (iii) a completion date guarantee, (iv) a  
14 provision for damages if the private entity fails to meet the  
15 completion date, and (v) a maximum rate of return to the private  
16 entity and a provision for the distribution of excess earnings to the  
17 local government unit or to the private party for debt reduction.

18 j. (1) A private entity seeking to enter into a public-private  
19 partnership agreement with the school district shall be qualified by  
20 the school district as part of the procurement process, provided such  
21 process ensures that the private entity and its subcontractors and  
22 consultants, where relevant, meet at least the minimum  
23 qualifications standards promulgated by the State Treasurer, in  
24 consultation with the New Jersey Economic Development  
25 Authority, Department of Education, Schools Development  
26 Authority, and such other school district standards for qualification  
27 for professional services, construction contracting, and other  
28 qualifications applicable to the project, prior to submitting a  
29 proposal under the procurement process.

30 (2) A request for qualifications for a public-private partnership  
31 agreement shall be advertised at least 45 days prior to the  
32 anticipated date of receipt. The advertisement of the request for  
33 qualifications shall be published on the official Internet website of  
34 the school district and at least one or more newspapers with  
35 Statewide circulation.

36 (3) After the school district determines the qualified respondents  
37 utilizing, at minimum, the qualification standards promulgated by  
38 the State Treasurer, the school district shall issue a request for  
39 proposals to each qualified respondent no less than 45 days prior to  
40 the date established for submission of the proposals. The request  
41 for proposals shall include relevant technical submissions,  
42 documents, and the evaluation criteria to be used in the selection of  
43 the designated respondent. The evaluation criteria shall be, at  
44 minimum, criteria promulgated by the State Treasurer, in  
45 consultation with the New Jersey Economic Development  
46 Authority, Department of Education, and Schools Development  
47 Authority.

1 (4) The school district may accept unsolicited proposals from  
2 private entities for public-private partnership agreements. If the  
3 school district receives an unsolicited proposal and determines that  
4 it meets the standards of this section, the school district shall  
5 publish a notice of the receipt of the proposal on the Internet site of  
6 the school district and through advertisement in at least one or more  
7 newspapers with Statewide circulation. The school district shall  
8 also provide notice of the proposal at its next scheduled public  
9 meeting and to the State Treasurer. To qualify as an unsolicited  
10 proposal, the unsolicited proposal must at a minimum include a  
11 description of the public-private project, the estimated construction  
12 and life-cycle costs, a timeline for development, proposed plan of  
13 financing, including projected revenues, public or private, debt,  
14 equity investment, description of how the project meets needs  
15 identified in existing plans, the permits and approvals needed to  
16 develop the project from local, state and federal agencies and a  
17 projected schedule for obtaining such permits and approvals, a  
18 statement of risks, liabilities and responsibilities to be assumed by  
19 the private entity. The notice shall provide that the school district  
20 will accept, for 120 days after the initial date of publication,  
21 proposals meeting the standards of this section from other private  
22 entities for eligible projects that satisfy the same basic purpose and  
23 need. A copy of the notice shall be mailed to each municipal and  
24 county local government body in the geographic area affected by  
25 the proposal.

26 (5) After the proposal or proposals have been received, and any  
27 public notification period has expired, the school district shall rank  
28 the proposals in order of preference. In ranking the proposals, the  
29 school district shall rely upon, at minimum, the evaluation criteria  
30 promulgated by the State Treasurer, in consultation with the New  
31 Jersey Economic Development Authority, Department of Education,  
32 and Schools Development Authority. In addition, the local school  
33 district may consider factors that include, but may not be limited to,  
34 professional qualifications, general business terms, innovative  
35 engineering, architectural services, or cost-reduction terms, finance  
36 plans, and the need for school district funds to deliver the project  
37 and discharge the agreement. The private entity selected shall  
38 comply with all laws and regulations required by the State  
39 government entity, including but not limited to section 1 of  
40 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,  
41 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2),  
42 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-  
43 51 et al.), Executive Order No. 117 of 2008, Executive Order No.  
44 118 of 2008, Executive Order No. 189, prior to executing the public  
45 private partnership agreement. If only one proposal is received, the  
46 school district shall negotiate in good faith and, if not satisfied with

1 the results of the negotiations, the school district may, at its sole  
2 discretion, terminate negotiations.

3 (6) The school district may require, upon receipt of one or more  
4 proposals, that the private entity assume responsibility for all costs  
5 incurred by the school district before execution of the public-private  
6 partnership agreement, including costs of retaining independent  
7 experts to review, analyze, and advise the school district with  
8 respect to the proposal.

9 (7) The school district shall set aside one percent of each project  
10 and remit it the Public-Private Partnership Review fund established  
11 pursuant to section 8 of P.L.2018, c.90 (C.52:18A-260), for  
12 purposes of plan review and analysis required under the bill.

13 (8) Nothing in this section shall be construed as or deemed a  
14 waiver of the sovereign immunity of the State, the local government  
15 unit or an affected locality or public entity or any officer or  
16 employee thereof with respect to the participation in or approval of  
17 all or any part of the public-private project.

18 (cf: P.L.2018, c.90, s.2)

19

20 <sup>1</sup>~~15.~~ 26.<sup>1</sup> N.J.S.18A:21-4 is amended to read as follows:

21 18A:21-4. A board of education may in any school year draw  
22 against its capital reserve account, up to the amount of the balance  
23 therein, to the extent that the withdrawal is anticipated as a revenue  
24 in the school budget for the then current school year or approved by  
25 the commissioner for good cause; provided, that no money drawn  
26 from the account may be used for current expenses of the general  
27 fund or debt service payments but shall be used exclusively for  
28 capital expenses of the general fund or capital projects fund when  
29 expressly authorized as part of a referendum, except as provided for  
30 in section 2 of P.L.2018, c.90 (C.18A:18A-60).

31 (cf: P.L.1996, c.138, s.52)

32

33 <sup>1</sup>~~16.~~ 27.<sup>1</sup> Section 10 of P.L.1995, c.426 (C.18A:36A-10) is  
34 amended to read as follows:

35 10. A charter school may be located in part of an existing public  
36 school building, in space provided on a public work site, in a public  
37 building, or any other suitable location. In the case of a nonpublic  
38 school that converts to a charter school pursuant to the provisions of  
39 section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school  
40 may be located in the same school building in which the nonpublic  
41 school was located. The facility shall be exempt from public school  
42 facility regulations except those pertaining to the health or safety of  
43 the pupils <sup>1</sup>, unless the facility is part of a school facilities project  
44 that is undertaken by the New Jersey Schools Development  
45 Authority pursuant to section 5 of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill)<sup>1</sup>. A charter school shall not  
47 construct a facility with public funds other than federal funds.

1 Notwithstanding the provisions of this section to the contrary, a  
 2 charter school located in an SDA district may construct a facility  
 3 with public funds <sup>1</sup>other than federal funds and be subject to the  
 4 provisions of the "Public School Contracts Law," N.J.S.18A:18A-1  
 5 et seq.,<sup>1</sup> provided that the public funds are provided for a school  
 6 facilities project approved pursuant to the provisions of section  
 7 <sup>1</sup>[4] <sup>5</sup> of P.L. , c. (C. ) (pending before the Legislature as  
 8 this bill).

9 (cf: P.L.2011, c.140, s.3)

10  
 11 <sup>1</sup>[17.] 28.<sup>1</sup> Section 7 of P.L.2011, c.176 (C.18A:36C-7) is  
 12 amended to read as follows:

13 7. a. Notwithstanding that a renaissance school project shall be  
 14 constructed, controlled, operated, and managed by a nonprofit  
 15 entity <sup>1</sup>, except that a renaissance school project may be constructed  
 16 as part of a school facilities project undertaken by the New Jersey  
 17 Schools Development Authority pursuant to section 5 of P.L. ,  
 18 c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>, and not  
 19 the local board of education, it shall be a public school. However  
 20 nothing contained herein shall restrict a for-profit entity from  
 21 constructing a renaissance school project, or a renaissance school  
 22 project from being located on land owned by a for-profit entity.  
 23 Further, the renaissance school project shall be authorized to retain  
 24 any business entity, however formed, whose primary purpose is the  
 25 staffing, operation, and management of elementary schools, middle  
 26 schools, or high schools in the United States, except as it relates to  
 27 instructional services.

28 b. The costs of a renaissance school project including, but not  
 29 limited to, the costs of land acquisition, site remediation, site  
 30 development, design, construction, and any other costs required to  
 31 place into service the school facility or facilities constituting the  
 32 renaissance school project shall be at the sole expense of the  
 33 nonprofit entity, except that a renaissance school project located in  
 34 an SDA district may receive funds for the State share of a school  
 35 facilities project pursuant to the provisions of section <sup>1</sup>[4] <sup>5</sup> of  
 36 P.L. , c. (C. ) (pending before the Legislature as this bill).  
 37 The nonprofit entity may use State funds to pay for a lease, debt  
 38 service, or mortgage for any facility constructed or otherwise  
 39 acquired.

40 c. Notwithstanding the provisions of the "Educational Facilities  
 41 Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et  
 42 al.), or any other law or regulation to the contrary, there shall be no  
 43 State share for the costs of a renaissance school project, except that  
 44 a renaissance school project located in an SDA district may receive  
 45 funds for the State share of a school facilities project approved  
 46 pursuant to the provisions of section <sup>1</sup>[4] <sup>5</sup> of P.L. ,  
 47 c. (C. ) (pending before the Legislature as this bill).



1 d. Notwithstanding the provisions of the "Public School  
2 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or  
3 regulation to the contrary, the nonprofit entity or any entity acting  
4 in cooperation with a renaissance school project shall not be subject  
5 to public bidding for goods and services, and any contracts entered  
6 into by the nonprofit entity shall not be deemed public contracts or  
7 public works; except that any contract entered into by the nonprofit  
8 entity or any entity acting in cooperation with a renaissance school  
9 project shall be deemed a public work for the purposes of the "New  
10 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et  
11 seq.), and subject to the applicable provisions of that act.

12 e. The renaissance school district in which a renaissance school  
13 project is located shall pay to the nonprofit entity in 12 equal  
14 monthly installments an amount per pupil equal to 95% of the  
15 district's per pupil expenditure. In addition the 12 monthly  
16 installments shall include the security categorical aid attributable to  
17 the student, a percentage of the district's special education  
18 categorical aid equal to the percentage of the district's special  
19 education students enrolled in the renaissance school project, and if  
20 applicable 100% of preschool education aid. The district shall also  
21 pay directly to the renaissance school project any federal funds  
22 attributable to the student.

23 f. Renaissance school projects shall be required to meet the  
24 same testing and academic performance standards established by  
25 law and regulation for public school students, and shall meet any  
26 additional testing and academic performance standards established  
27 by the nonprofit entity and approved by the commissioner.

28 g. The nonprofit entity shall have complete discretion in  
29 naming the renaissance school project. The nonprofit entity may  
30 not realize a net profit from its operation of a renaissance school  
31 project. A private or parochial school shall not be eligible for  
32 renaissance school project status.

33 h. A nonprofit entity shall operate a renaissance school project  
34 in accordance with the contract entered into pursuant to section 6 of  
35 this act, the provisions of this act, and the laws and regulations that  
36 govern charter schools which are not inconsistent with this act.  
37 (cf: P.L.2014, c.61, s.3)

38

39 <sup>1</sup>**[18.] 29.**<sup>1</sup> Section 12 of P.L.1991, c.431 (C.40A:20-12) is  
40 amended to read as follows:

41 12. The rehabilitation or improvements made in the development  
42 or redevelopment of a redevelopment area or area appurtenant  
43 thereto or for a redevelopment relocation housing project, pursuant  
44 to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from  
45 taxation for a limited period as hereinafter provided. When housing  
46 is to be constructed, acquired or rehabilitated by an urban renewal  
47 entity, the land upon which that housing is situated shall be exempt

1 from taxation for a limited period as hereinafter provided. The  
2 exemption shall be allowed when the clerk of the municipality  
3 wherein the property is situated shall certify to the municipal tax  
4 assessor that a financial agreement with an urban renewal entity for  
5 the development or the redevelopment of the property, or the  
6 provision of a redevelopment relocation housing project, or the  
7 provision of a low and moderate income housing project has been  
8 entered into and is in effect as required by P.L.1991, c.431  
9 (C.40A:20-1 et seq.).

10 Delivery by the municipal clerk to the municipal tax assessor of  
11 a certified copy of the ordinance of the governing body approving  
12 the tax exemption and financial agreement with the urban renewal  
13 entity shall constitute the required certification. For each  
14 exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et  
15 al.), upon certification as required hereunder, the tax assessor shall  
16 implement the exemption and continue to enforce that exemption  
17 without further certification by the clerk until the expiration of the  
18 entitlement to exemption by the terms of the financial agreement or  
19 until the tax assessor has been duly notified by the clerk that the  
20 exemption has been terminated.

21 Within 10 calendar days following the later of the effective date  
22 of an ordinance following its final adoption by the governing body  
23 approving the tax exemption or the execution of the financial  
24 agreement by the urban renewal entity, the municipal clerk shall  
25 transmit a certified copy of the ordinance and financial agreement  
26 to the chief financial officer of the county and to the county counsel  
27 for informational purposes.

28 Whenever an exemption status changes during a tax year, the  
29 procedure for the apportionment of the taxes for the year shall be  
30 the same as in the case of other changes in tax exemption status  
31 during the tax year. Tax exemptions granted pursuant to P.L.2003,  
32 c.125 (C.40A:12A-4.1 et al.) represent long term financial  
33 agreements between the municipality and the urban renewal entity  
34 and as such constitute a single continuing exemption from local  
35 property taxation for the duration of the financial agreement. The  
36 validity of a financial agreement or any exemption granted pursuant  
37 thereto may be challenged only by filing an action in lieu of  
38 prerogative writ within 20 days from the publication of a notice of  
39 the adoption of an ordinance by the governing body granting the  
40 exemption and approving the financial agreement. Such notice  
41 shall be published in a newspaper of general circulation in the  
42 municipality and in a newspaper of general circulation in the county  
43 if different from the municipal newspaper.

44 a. The financial agreement shall specify the duration of the  
45 exemption for urban renewal entities in accordance with the  
46 parameters of either paragraph (1) or paragraph (2) of this  
47 subsection:

1 (1) the financial agreement may specify a duration of not more  
2 than 30 years from the completion of the entire project, or unit of  
3 the project if the project is undertaken in units, or not more than 35  
4 years from the execution of the financial agreement between the  
5 municipality and the urban renewal entity; or

6 (2) for each project undertaken pursuant to a redevelopment  
7 agreement which allows the redeveloper to undertake two or more  
8 projects sequentially, the financial agreement may specify a  
9 duration of not more than 30 years from the completion of a project,  
10 or unit of the project if the project is undertaken in units, or not  
11 more than 50 years from the execution of the first financial  
12 agreement implementing a project under the redevelopment  
13 agreement. As used in this subsection, "redevelopment agreement"  
14 means an agreement entered into pursuant to subsection f. of section  
15 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or  
16 redevelopment entity and a redeveloper.

17 A financial agreement may provide for an exemption period of  
18 less than 30 years from the completion of the entire project, less  
19 than 35 years from the execution of the financial agreement, or less  
20 than 50 years from the execution of the first financial agreement  
21 implementing a project under the redevelopment agreement.  
22 Nothing in this subsection shall be construed as requiring a  
23 financial agreement for a project undertaken pursuant to a  
24 redevelopment agreement which allows the redeveloper to  
25 undertake two or more projects sequentially to specify a duration  
26 within the parameters of paragraph (2) of this subsection.

27 b. During the term of any exemption, in lieu of any taxes to be  
28 paid on the buildings and improvements of the project and, to the  
29 extent authorized pursuant to this section, on the land, the urban  
30 renewal entity shall make payment to the municipality of an annual  
31 service charge, which shall remit a portion of that revenue to the  
32 county as provided hereinafter. In addition, the municipality may  
33 assess an administrative fee, not to exceed two percent of the annual  
34 service charge, for the processing of the application. The annual  
35 service charge for municipal services supplied to the project to be  
36 paid by the urban renewal entity for any period of exemption, shall  
37 be determined as follows:

38 (1) An annual amount equal to a percentage determined  
39 pursuant to this subsection and section 11 of P.L.1991, c.431  
40 (C.40A:20-11), of the annual gross revenue from each unit of the  
41 project, if the project is undertaken in units, or from the total  
42 project, if the project is not undertaken in units. The percentage of  
43 the annual gross revenue shall not be more than 15% in the case of  
44 a low and moderate income housing project, nor less than 10% in  
45 the case of all other projects.

46 At the option of the municipality, or where because of the nature  
47 of the development, ownership, use or occupancy of the project or

1 any unit thereof, if the project is to be undertaken in units, the total  
2 annual gross rental or gross shelter rent or annual gross revenue  
3 cannot be reasonably ascertained, the governing body shall provide  
4 in the financial agreement that the annual service charge shall be a  
5 sum equal to a percentage determined pursuant to this subsection  
6 and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total  
7 project cost or total project unit cost determined pursuant to  
8 P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day  
9 of the month following the substantial completion of the project or  
10 any unit thereof, if the project is undertaken in units. The  
11 percentage of the total project cost or total project unit cost shall not  
12 be more than 2% in the case of a low and moderate income housing  
13 project, and shall not be less than 2% in the case of all other  
14 projects.

15 (2) In either case, the financial agreement shall establish a  
16 schedule of annual service charges to be paid over the term of the  
17 exemption period, which shall be in stages as follows:

18 (a) For the first stage of the exemption period, which shall  
19 commence with the date of completion of the unit or of the project,  
20 as the case may be, and continue for a time of not less than six years  
21 nor more than 15 years, as specified in the financial agreement, the  
22 urban renewal entity shall pay the municipality an annual service  
23 charge for municipal services supplied to the project in an annual  
24 amount equal to the amount determined pursuant to paragraph (1) of  
25 this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11).  
26 For the remainder of the period of the exemption, if any, the annual  
27 service charge shall be determined as follows:

28 (b) For the second stage of the exemption period, which shall  
29 not be less than one year nor more than six years, as specified in the  
30 financial agreement, an amount equal to either the amount  
31 determined pursuant to paragraph (1) of this subsection and section  
32 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of  
33 taxes otherwise due on the value of the land and improvements,  
34 whichever shall be greater;

35 (c) For the third stage of the exemption period, which shall not  
36 be less than one year nor more than six years, as specified in the  
37 financial agreement, an amount equal to either the amount  
38 determined pursuant to paragraph (1) of this subsection and section  
39 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of  
40 taxes otherwise due on the value of the land and improvements,  
41 whichever shall be greater;

42 (d) For the fourth stage of the exemption period, which shall not  
43 be less than one year nor more than six years, as specified in the  
44 financial agreement, an amount equal to either the amount  
45 determined pursuant to paragraph (1) of this subsection and section  
46 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of

1 taxes otherwise due on the value of the land and improvements,  
2 whichever shall be greater; and

3 (e) For the final stage of the exemption period, the duration of  
4 which shall not be less than one year and shall be specified in the  
5 financial agreement, an amount equal to either the amount  
6 determined pursuant to paragraph (1) of this subsection and section  
7 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of  
8 taxes otherwise due on the value of the land and improvements,  
9 whichever shall be greater.

10 If the financial agreement provides for an exemption period of  
11 less than 30 years from the completion of the entire project, less  
12 than 35 years from the execution of the financial agreement, or less  
13 than 50 years from the execution of the first financial agreement  
14 implementing a project under the redevelopment agreement, the  
15 financial agreement shall set forth a schedule of annual service  
16 charges for the exemption period which shall be based upon the  
17 minimum service charges and staged adjustments set forth in this  
18 section.

19 The annual service charge shall be paid to the municipality on a  
20 quarterly basis in a manner consistent with the municipality's tax  
21 collection schedule.

22 Each municipality which enters into a financial agreement on or  
23 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)  
24 shall remit 5 percent of the annual service charge collected by the  
25 municipality to the county in accordance with the provisions of  
26 R.S.54:4-74. If the municipality enters into a contract with a board  
27 of education pursuant to section 8 of P.L. , c. (C. ) (pending  
28 before the Legislature as this bill), the municipality shall also remit  
29 to the board of education such amounts as may be required under  
30 the contract.

31 Against the annual service charge the urban renewal entity shall  
32 be entitled to credit for the amount, without interest, of the real  
33 estate taxes on land paid by it in the last four preceding quarterly  
34 installments.

35 Notwithstanding the provisions of this section or of the financial  
36 agreement, the minimum annual service charge shall be the amount  
37 of the total taxes levied against all real property in the area covered  
38 by the project in the last full tax year in which the area was subject  
39 to taxation, and the minimum annual service charge shall be paid in  
40 each year in which the annual service charge calculated pursuant to  
41 this section or the financial agreement would be less than the  
42 minimum annual service charge.

43 c. All exemptions granted pursuant to the provisions of  
44 P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time  
45 prescribed in the financial agreement.

46 Upon the termination of the exemption granted pursuant to the  
47 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all

1 affected parcels, land and all improvements made thereto shall be  
2 assessed and subject to taxation as are other taxable properties in  
3 the municipality. After the date of termination, all restrictions and  
4 limitations upon the urban renewal entity shall terminate and be at  
5 an end upon the entity's rendering its final accounting to and with  
6 the municipality.  
7 (cf: P.L.2018, c.97, s.17)

8  
9 <sup>1</sup>30. Section 3 of P.L.2007, c.137 (C.52:18A-237) is amended to  
10 read as follows:

11 3. a. There is established in, but not of, the Department of the  
12 Treasury a public body corporate and politic, with corporate  
13 succession, to be known as the "New Jersey Schools Development  
14 Authority." The development authority shall constitute an  
15 instrumentality of the State exercising public and essential  
16 governmental functions, and the exercise by the development  
17 authority of the powers conferred by this act shall be deemed and  
18 held to be an essential governmental function of the State.

19 b. The development authority shall consist of the  
20 Commissioner of Education, the Commissioner of the Department  
21 of Community Affairs, the executive director of the Economic  
22 Development Authority, and the State Treasurer, who shall serve as  
23 ex officio members; and 11 public members appointed by the  
24 Governor with the advice and consent of the Senate. At least one of  
25 the public members shall have knowledge or expertise in the area of  
26 law enforcement and the remaining public members shall have  
27 knowledge or expertise in real estate development, construction  
28 management, finance, architectural or building design, or any other  
29 related field. In addition, the development authority shall consist of  
30 two public members, one appointed by the Senate President and one  
31 appointed by the Speaker of the General Assembly, which members  
32 shall have knowledge or expertise in real estate development,  
33 construction management, finance, architectural or building design,  
34 or any other related field.

35 c. Each public member shall serve for a term of five years and  
36 shall hold office for the term of the member's appointment and until  
37 the member's successor shall have been appointed and qualified. A  
38 member shall be eligible for reappointment. Any vacancy in the  
39 membership occurring other than by expiration of term shall be  
40 filled in the same manner as the original appointment but for the  
41 unexpired term only.

42 In the case of the first 11 public members appointed by the  
43 Governor pursuant to subsection b. of this section, three shall serve  
44 for a term of two years, three shall serve for a term of three years,  
45 three shall serve for a term of four years, and two shall serve for a  
46 term of five years.

1 d. (1) Each member appointed by the Governor may be  
2 removed from office by the Governor, for cause, after a public  
3 hearing, and may be suspended by the Governor pending the  
4 completion of such hearing. Each member before entering upon  
5 ~~his~~ the member's duties shall take and subscribe an oath to  
6 perform the duties of the office faithfully, impartially and justly to  
7 the best of ~~his~~ the member's ability. A record of such oath shall  
8 be filed in the Office of the Secretary of State.

9 (2) Each member appointed by the Senate President and Speaker  
10 of the General Assembly may be removed from office by the Senate  
11 President or Speaker as applicable, for cause, after a public hearing,  
12 and may be suspended by the Senate President or Speaker as  
13 applicable pending the completion of the hearing. Each member  
14 before entering upon the member's duties shall take and subscribe  
15 an oath to perform the duties of the office faithfully, impartially and  
16 justly to the best of the member's ability. A record of the oath shall  
17 be filed in the Office of the Secretary of State.

18 e. A chairperson shall be appointed by the Governor from the  
19 public members. The members of the development authority shall  
20 elect from their remaining number a vice-chairperson, a secretary,  
21 and a treasurer thereof. The development authority shall employ an  
22 executive director who shall be its chief executive officer. The  
23 powers of the development authority shall be vested in the members  
24 thereof in office from time to time and ~~eight~~ nine members of the  
25 development authority shall constitute a quorum at any meeting  
26 thereof. Action may be taken and motions and resolutions adopted  
27 by the development authority at any meeting thereof by the  
28 affirmative vote of at least ~~eight~~ nine members of the  
29 development authority. No vacancy in the membership of the  
30 development authority shall impair the right of a quorum of the  
31 members to exercise all the powers and perform all the duties of the  
32 development authority.

33 f. Each member of the development authority shall execute a  
34 bond to be conditioned upon the faithful performance of the duties  
35 of such member in such form and amount as may be prescribed by  
36 the Director of the Division of Budget and Accounting in the  
37 Department of the Treasury. Such bonds shall be filed in the Office  
38 of the Secretary of State. At all times thereafter the members and  
39 treasurer of the development authority shall maintain such bonds in  
40 full force and effect. All costs of such bonds shall be borne by the  
41 development authority.

42 g. The members of the development authority shall serve  
43 without compensation, but the development authority may  
44 reimburse its members for actual expenses necessarily incurred in  
45 the discharge of their duties. Notwithstanding the provisions of any  
46 other law to the contrary, no officer or employee of the State shall  
47 be deemed to have forfeited or shall forfeit any office or

1 employment or any benefits or emoluments thereof by reason of the  
2 acceptance of the office of ex officio member of the development  
3 authority or any services therein.

4 h. Each ex officio member of the development authority may  
5 designate an officer or employee of the member's department to  
6 represent the member at meetings of the development authority, and  
7 each such designee may lawfully vote and otherwise act on behalf  
8 of the member for whom the person constitutes the designee. Any  
9 such designation shall be in writing delivered to the development  
10 authority and shall continue in effect until revoked or amended by  
11 writing delivered to the development authority.

12 i. The development authority shall appoint from among its  
13 members an audit committee and such other committees as it deems  
14 necessary or conducive to the efficient management and operation  
15 of the development authority.

16 j. The development authority may be dissolved by act of the  
17 Legislature on condition that the development authority has no  
18 debts or obligations outstanding or that provision has been made for  
19 the payment or retirement of such debts or obligations. Upon any  
20 such dissolution of the development authority, all property, funds  
21 and assets thereof shall be vested in the State.

22 k. A true copy of the minutes of every meeting of the  
23 development authority shall be forthwith delivered by and under the  
24 certification of the secretary thereof to the Governor. No action  
25 taken at the meeting by the development authority shall have force  
26 or effect until 10 days, Saturdays, Sundays, and public holidays  
27 excepted, after the copy of the minutes shall have been so delivered,  
28 unless during such 10-day period the Governor shall approve the  
29 same in which case the action shall become effective upon such  
30 approval. If, in that 10-day period, the Governor returns a copy of  
31 the minutes with veto of any action taken by the development  
32 authority or any member thereof at the meeting, the action shall be  
33 null and void and of no effect.

34 l. The development authority shall cause an audit of its books  
35 and accounts to be made at least once in each year by certified  
36 public accountants and cause a copy thereof to be filed with the  
37 Secretary of State, the Director of the Division of Budget and  
38 Accounting in the Department of the Treasury, and the State  
39 Auditor.

40 m. The development authority shall submit to the Governor, the  
41 Joint Budget Oversight Committee, the President of the Senate and  
42 the Speaker of the General Assembly a biannual report pursuant to  
43 the provisions of section 24 of P.L.2000, c.72 (C.18A:7G-24).

44 n. The Director of the Division of Budget and Accounting in  
45 the Department of the Treasury and the director's legally authorized  
46 representatives are authorized and empowered from time to time to  
47 examine the accounts, books and records of the development



1 authority including its receipts, disbursements, contracts, funds,  
2 investments and any other matters relating thereto and to its  
3 financial standing.

4 o. No member, officer, employee or agent of the development  
5 authority shall be interested, either directly or indirectly, in any  
6 school facilities project, or in any contract, sale, purchase, lease or  
7 transfer of real or personal property to which the development  
8 authority is a party.<sup>1</sup>

9 (cf: P.L.2007, c.137, s.3)

10

11 <sup>1</sup>**[19.] 31.**<sup>1</sup> Section 4 of P.L.2007, c.137 (C.52:18A-238) is  
12 amended to read as follows:

13 4. The development authority shall have the following powers:

14 a. To adopt bylaws for the regulation of its affairs and the  
15 conduct of its business;

16 b. To adopt and have a seal and to alter the same at pleasure;

17 c. To sue and be sued;

18 d. To acquire in the name of the development authority by  
19 purchase or otherwise, on such terms and conditions and such  
20 manner as it may deem proper, or by the exercise of the power of  
21 eminent domain in the manner provided by the "Eminent Domain  
22 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
23 interests therein or other property which it may determine is  
24 reasonably necessary for any school facilities project;

25 e. To enter into contracts with a person upon such terms and  
26 conditions as the development authority shall determine to be  
27 reasonable, including, but not limited to, for the planning, design,  
28 construction, reconstruction, improvement, equipping, furnishing,  
29 operation and maintenance of a school facilities project and the  
30 reimbursement thereof, and to pay or compromise any claims  
31 arising therefrom;

32 f. To sell, convey or lease to any person all or any portion of  
33 its property, for such consideration and upon such terms as the  
34 development authority may determine to be reasonable;

35 g. To mortgage, pledge or assign or otherwise encumber all or  
36 any portion of any property or revenues, whenever it shall find such  
37 action to be in furtherance of the purposes of P.L.2000, c.72  
38 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

39 h. To grant options to purchase or renew a lease for any of its  
40 property on such terms as the development authority may determine  
41 to be reasonable;

42 i. To contract for and to accept any gifts or grants or loans of  
43 funds or property or financial or other aid in any form from the  
44 United States of America or any agency or instrumentality thereof,  
45 or from the State or any agency, instrumentality or political  
46 subdivision thereof, or from any other source and to comply,  
47 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and

1 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
2 conditions thereof;

3 j. In connection with any application for assistance under  
4 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-  
5 235 et al.) or commitments therefor, to require and collect such fees  
6 and charges as the development authority shall determine to be  
7 reasonable;

8 k. To adopt, amend and repeal regulations to carry out the  
9 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007,  
10 c.137 (C.52:18A-235 et al.);

11 l. To acquire, purchase, manage and operate, hold and dispose  
12 of real and personal property or interests therein, take assignments  
13 of rentals and leases and make and enter into all contracts, leases,  
14 agreements and arrangements necessary or incidental to the  
15 performance of its duties;

16 m. To purchase, acquire and take assignments of notes,  
17 mortgages and other forms of security and evidences of  
18 indebtedness;

19 n. To purchase, acquire, attach, seize, accept or take title to any  
20 property by conveyance or by foreclosure, and sell, lease, manage  
21 or operate any property for a use specified in P.L.2000, c.72  
22 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

23 o. (1) To employ consulting engineers, architects, attorneys,  
24 real estate counselors, appraisers, and such other consultants and  
25 employees as may be required in the judgment of the development  
26 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1  
27 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay  
28 their compensation from funds available to the development  
29 authority therefor, all without regard to the provisions of Title 11A  
30 of the New Jersey Statutes; except that, no later than one year  
31 following the effective date of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending  
32 before the Legislature as this bill), the development authority shall  
33 only employ staff for the purposes of program operations,  
34 construction operations, financial operations and compliance, and  
35 grant administration. The human resources, legal affairs, facilities  
36 management, administrative, and technological and information  
37 systems operations of the development authority shall be managed  
38 by the following State agencies in the manner specified:

39 (a) the Civil Service Commission shall exercise authority over  
40 human resource management for employees of the development  
41 authority, which shall include, but not be limited to, the process for  
42 hiring the employees and terminating their employment, and  
43 orienting, training, counseling, and appraising the employees<sup>1</sup>,  
44 provided, however, that an affirmative vote of the development  
45 authority shall be required in the hiring, termination, and  
46 disciplining of employees of the development authority as well as in

- 1 the transfer of any employees of the development authority among  
2 different subunits of the development authority<sup>1</sup>;
- 3 (b) the Office of the Attorney General shall exercise authority  
4 over the legal affairs of the development authority, which shall  
5 include, but not be limited to, legal counsel and advice and formal  
6 representation of the development authority when needed;
- 7 (c) the Department of the Treasury shall exercise authority over  
8 facilities management and other administrative functions not  
9 identified in subparagraphs (a), (b), and (d) of this paragraph; and
- 10 (d) the Office of Information Technology shall exercise authority  
11 over the technological and information systems needs of the  
12 development authority, which shall include, but not be limited to,  
13 developing technology plans, providing technical and general  
14 technological support to employees of the development authority,  
15 and maintaining information systems and other technological  
16 infrastructure.
- 17 (2) Notwithstanding the provisions of P.L.2007, c.137  
18 (C.52:18A-235 et al.) or any other law, rule, or regulation to the  
19 contrary, the operations of the development authority shall be  
20 funded annually through State appropriations. The Legislature shall  
21 annually appropriate such sums as are necessary to finance the  
22 operations of the development authority, as authorized under this  
23 subsection.
- 24 p. To do and perform any acts and things authorized by  
25 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
26 235 et al.) under, through or by means of its own officers, agents  
27 and employees, or by contract with any person;
- 28 q. To procure insurance against any losses in connection with  
29 its property, operations or assets in such amounts and from such  
30 insurers as it deems desirable;
- 31 r. To do any and all things necessary or convenient to carry out  
32 its purposes and exercise the powers given and granted in P.L.2000,  
33 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 34 s. To construct, reconstruct, rehabilitate, improve, alter, equip,  
35 maintain or repair or provide for the construction, reconstruction,  
36 improvement, alteration, equipping or maintenance or repair of any  
37 property and lot, award and enter into construction contracts,  
38 purchase orders and other contracts with respect thereto, upon such  
39 terms and conditions as the development authority shall determine  
40 to be reasonable, including, but not limited to, reimbursement for  
41 the planning, designing, construction, reconstruction, improvement,  
42 equipping, furnishing, operation and maintenance of any such  
43 property and the settlement of any claims arising therefrom;
- 44 t. To undertake school facilities projects and to enter into  
45 agreements or contracts, execute instruments, and do and perform  
46 all acts or things necessary, convenient or desirable for the purposes  
47 of the development authority to carry out any power expressly

1 provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
2 P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to,  
3 entering into contracts with the State Treasurer, the New Jersey  
4 Economic Development Authority, the Commissioner of Education,  
5 districts, and any other entity which may be required in order to  
6 carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or  
7 P.L.2007, c.137 (C.52:18A-235 et al.);

8 u. To enter into leases, rentals or other disposition of a real  
9 property interest in and of any school facilities project to or from  
10 any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
11 P.L.2007, c.137 (C.52:18A-235 et al.);

12 v. To make and contract to make loans or leases to local units  
13 to finance the cost of school facilities projects and to acquire and  
14 contract to acquire bonds, notes or other obligations issued or to be  
15 issued by local units to evidence the loans or leases, all in  
16 accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et  
17 al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

18 w. To charge to and collect from local units, the State, and any  
19 other person, any fees and charges in connection with the  
20 development authority's actions undertaken with respect to school  
21 facilities projects including, but not limited to, fees and charges for  
22 the development authority's administrative, organization, insurance,  
23 operating and other expenses incident to the planning, design,  
24 construction and placing into service and maintenance of school  
25 facilities projects.

26 (cf: P.L.2007, c.137, s.4)

27

28 <sup>1</sup>**[20.] 32.**<sup>1</sup> This act shall take effect immediately.